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INNOVATION LAWYER PROJECT

COVID-19 INSIGHTS

Global Legal Briefing

Zaglio Orizio e Associati
in collaboration with our
Partners & Friends

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INTRODUZIONE

L'emergenza sanitaria conseguente alla diffusione su scala planetaria del Covid-19 ha avuto - e sta tuttora avendo - un impatto umano ed economico globale che soltanto pochi mesi fa sarebbe stato impossibile immaginare o anche solo comprendere.

Le sfide da affrontare sono molte, dalla gestione del dramma umano, alla riorganizzazione dei sistemi sanitari, alla ripartenza dei sistemi economici domestici e internazionali.

Nelle fasi più acute dell'emergenza, molti Paesi hanno considerato l'opportunità di ricostituire *supply chain* di "prossimità" geografica al fine di salvaguardare la capacità produttiva interna, con rivisitazione di strategie improntate ai modelli di regionalizzazione dei mercati e al *re-shoring*.

L'emergenza sanitaria ha imposto alle imprese che partecipano alle catene di fornitura globale di affrontare le inattese conseguenze a cui la propria operatività internazionale è rimasta tutta a un tratto esposta, sul versante tanto dei rapporti con i partner commerciali stranieri quanto dell'implementazione delle proprie iniziative all'estero.

Questo momento storico porterà comunque con sé anche la possibilità per gli operatori economici di indirizzare la propria energia imprenditoriale verso nuovi progetti e mercati, nuove frontiere della ricerca e dell'innovazione, nuove opportunità di business.

Il futuro delle relazioni economiche rimane, del resto, fondato sugli scambi commerciali internazionali, secondo un processo di globalizzazione che a ben vedere non è solo quello avviato negli ultimi decenni ma, piuttosto, quello innescato già a seguito dell'iniziativa dei primi viaggiatori, mercanti ed esploratori dei secoli passati. In tal senso, la globalizzazione è, a tutti gli effetti, una manifestazione diretta della natura dell'uomo, sempre alla ricerca di nuove opportunità e frontiere.

In aggiunta, un mondo digitalizzato non può essere un mondo isolato: le innovative tecnologie sono i nuovi paradigmi sulla base dei quali tutti i sistemi economici nazionali affronteranno il prossimo ciclo di sviluppo, creando un mondo sempre più interconnesso anche dal punto di vista sociale, culturale e, ancora più dal punto di vista economico. Quella che seguirà, quindi, sarà con ogni probabilità una globalizzazione mutata, rinnovata, basata su nuovi modelli tecnologici, economici e giuridici.

Le popolazioni mondiali hanno tutte risposto unitariamente alla necessità di rispettare i lockdown disposti dai rispettivi Governi e le varie misure di sicurezza adottate per contrastare l'ulteriore diffusione del Covid-19, con un impegno e un senso di responsabilità davvero su scala mondiale, dimostrando coraggio, resilienza e umanità, a conferma del fatto che l'essere umano è in fondo portatore di valori umani fondamentali basati su rispetto, senso etico, bontà, empatia e cooperazione.

Questi stessi valori devono ora essere posti da imprese e istituzioni alla base dei meccanismi di ripresa economica dei nostri Paesi, sia a livello nazionale che internazionale.

A questo riguardo ho parlato a lungo con i nostri Partners e Amici, condividendo le stesse visioni e aspettative sul futuro, rispetto a nuove progettualità e innovative forme di affiancamento alle imprese dei nostri rispettivi Paesi. E nel confronto sulle opportunità da esplorare per il comune futuro, seppure video-collegati da remoto ci siamo sentiti più vicini, anche se separati da distanze geografiche enormi: alla fine, la pandemia è diventata quel punto di contatto condiviso per il quale reagire e dal quale ripartire per superare tutte le frontiere.

Prepariamoci quindi a essere promotori e sostenitori di un rinnovato spirito di cooperazione globale, nonché dell'implementazione di servizi e modelli innovativi per il nostro ruolo di avvocati di domani.

Dal momento che, in ogni epoca, la conoscenza e la condivisione della cultura degli altri popoli è alla base dello sviluppo umano ed economico, in un mondo globalizzato e digitalizzato lo studio di altri modelli legali è un fattore fondamentale per assecondare i predetti obbiettivi di sviluppo. In tal senso, il presente lavoro è inteso a fornire un primo quadro informativo su alcune delle implicazioni giuridiche correlate alla pandemia nelle importanti e strategiche Giurisdizioni trattate.

Ringrazio tutti i nostri Partners e Amici che, fornendo preziosi e qualificati contributi, hanno con entusiasmo aderito alla presente iniziativa rendendola in tal modo realizzabile.

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Introduction

The health emergency caused by the global spread of Covid-19 has had - and still is having - a global human and economic impact that only a few months ago would have been impossible to imagine or even understand.

The challenges to be faced are many, from dealing with the human ordeal, to the reorganization of national health systems, to the restarting of domestic and international economic systems.

In the most acute phases of this emergency, many Countries have started considering the opportunity to refocus on the geographic "proximity" of supply chains in order to safeguard domestic production capacity, revisiting as well local strategies based on market regionalization models and re-shoring.

The health emergency has forced companies that participate in global supply chains to face the unexpected consequences to which their international operations have been suddenly exposed, with reference to both their relations with foreign commercial partners and the implementation of their initiatives abroad.

However, this historical moment will also bring along with it the possibility for economic operators to direct their entrepreneurial energy towards new projects and markets, new frontiers of research and innovation, new business opportunities.

It must be said that the future of economic relations still rests on international trade, according to a process of globalization which, if we watch closely, is not only the one started in recent decades but, rather, the one already triggered following the initiative of those merchants and explorers in a timespan of centuries. Globalization is, in all respects, a direct manifestation of the mankind's nature, always exploring for new opportunities and frontiers.

In addition to that, a digitized world cannot be an isolated world: ground-breaking technologies are the new paradigms on the basis of which all national economic systems will face the next development cycle, creating an increasingly interconnected world also from a social and cultural point of view and, even more economically. What will follow, then, will in all likelihood be a mutated, renewed globalization based on new technological, economic and legal models.

We cannot fail to notice how the world's populations have all responded jointly to the call to respect the lock-downs arranged by their respective Governments and the various safety measures adopted to combat the further spread of Covid-19, with a truly global commitment and sense of responsibility, showing courage, resilience and humanity, stating the fact that human beings really are basically the bearers of fundamental human values based on respect, ethical sense, kindness, empathy and cooperation.

This set of values must now be the driver for the economic recovery mechanisms deployed by businesses and institutions of our Countries, both on a national and international level.

In this regard, I spoke at length with our Partners and Friends, sharing the same visions and expectations about the future, with respect to new projects and innovative forms of support to companies in our respective countries. And in the process of sharing ideas and exploring opportunities for our common future, although speaking in video-calls, we felt closer even if separated by enormous geographical distances: in the end, the pandemic has become the shared contact point for which reacting and from which once again setting off toward new frontiers.

Let us therefore prepare to promote and support a renewed spirit of global cooperation, as well as the implementation of innovative services and models for our role as tomorrow's lawyers.

Since, in human history, the knowledge and sharing of the culture of other populations are the foundation of human and economic development, in a globalized and digitized world the study of other legal systems is a fundamental factor for achieving the aforementioned development goals. Accordingly, this briefing is intended to provide an initial informative overview on some of the legal implications related to the pandemic in the leading and strategic jurisdictions herein analysed.

I thank all our Partners and Friends who, by providing their valuable and qualified contributions, have enthusiastically joined this initiative making it feasible.

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Global Legal Briefing

ALBANIA

LPA LAW FIRM ALBANIA LTD

EMERGENCY MEASURES

On 12.03.2020, the Ministry of Health and Social Protection has published the Order No. 164, dated 12.03.2020 "For the Closure of Coffee shops, Restaurants, Bars, Fast-Food and Restriction of Services of Accommodation Structures that Provide Customer Service".

Order no.164 (as amended with Order no. 217 dated 1.04.2020) provides that the following activities will remain closed during the COVID-19 emergency, until a second order:

1. Coffee shops, Restaurants, Fast- Food, Bars and other facilities providing customer services throughout the country are obliged to stay closed:

2. Exemption to the rule set out herein- above in point 1 shall apply only to home delivery services, which must comply with the approved hygiene rules.

3. Bar and Restaurant services provided by the ACCOMMODATION STRUCTURE, shall be offered only to citizens who are accommodated in the relevant accommodation structure.

4. ACCOMMODATION STRUCTURES are prohibited to offer Bar and Restaurant services to citizens who are not registered as clients of accommodation structure.

5. State Health Inspectorate, the Health Care Operator and the entities that carry out the activities specified in this Order are responsible for the implementation of these provisions.

6. The State Health Inspectorate monitors the implementation of the Order and imposes fines, according to the applicable legislation in force.

The Order of the Ministry of Health and Social Protection has entered into force with immediate effect.

On April 23rd, the Albanian parliament approved the government's proposal to extend the state of natural disaster in the country, which was announced by decision no. 243 of 24.03.2020, until June 23 2020.

CONTRACT LAW – FORCE MAJEURE

Force majeure clauses define circumstances beyond the parties’ control that can render contractual performance too difficult or even impossible. Where an event (or series of events) triggers a force majeure clause, the party invoking the clause may suspend, defer, or be released from its duties to perform without liability.

Force majeure clauses in commercial contracts typically provide a list of specific events outside of the contracting parties’ control that, upon occurrence, would excuse or delay the invoking party’s performance, or permit the cancellation of the contract. Events like war, terrorist attacks, famine, earthquakes, floods, strikes, fire, epidemics, and

government action are typically included as force majeure events excusing performance. Some force majeure clauses also include catch-all language broadly excusing performance based on significant events outside the parties' control.

What can companies do to address force majeure rights (or risks) in the face of Covid-19? Companies should take proactive steps to mitigate their risk (or maximize their rights) triggered by a force majeure event, and to prepare for interruption to their operations or those of their suppliers/commercial contract counterparties.

1. Review commercial contracts to assess what force majeure rights, remedies and requirements may apply if a party's operations are disrupted. For example, some force majeure provisions require that the invoking party disclose the time period during which its performance will be delayed. Or the clause may provide a right to source from an alternate provider, or terminate the contract for non-performance after a certain period of time.

2. Review the notice and response requirements in the provision to ensure the timeliness, content, and proper delivery method of any invocation of, or response to, a force majeure notice.

3. Obtain and retain as much information as possible about any potential force majeure claim, documenting the timing, the number of impacted people/parts/facilities, and when the event is expected to conclude. If complete information is not available, the party invoking force majeure should supplement its notice as additional information becomes available.

4. Begin considering contingency plans if there is risk that your company may be impacted by COVID-19. Consider whether there are alternative means to perform/satisfy contractual obligations or proactive steps to take in anticipation of the effects of the outbreak. Document efforts to comply with contract terms or to find other means by which to comply.

5. Manage communications with counterparties, bearing in mind the importance of global coordination of what may be local relationships to ensure a company-wide, consistent approach.

6. Understand local regulatory actions and restrictions regarding public policy and public health and monitor new regulatory actions taken in response to COVID-19 to determine if the company must act in a way that affects contractual commitments.

7. Consider the effect of a force majeure declaration in one commercial contract across other agreements and legal obligations. For instance, some financial agreements include representations regarding, or covenants to provide notice of, material events that could lead to litigation or anticipated loss outside of the ordinary course of business. Such events may also constitute an event of default in related agreements.

A proper assessment of the impact of the coronavirus outbreak requires a fact-specific analysis of a company's business and contractual relationships.

CONTRACT LAW – RENTAL PAYMENTS

Pursuant to the Normative Act no. 12, dated 2.4.2020 "On an addition to the Normative Act No. 3, dated 15.3.2020, of the Council of Ministers, "On taking special administrative measures during the duration of the infection period caused by Covid-19", as amended, rent payments will be suspended for small businesses and for economically active household members who stopped working due to the public health orders.

These facilities shall be applied to individuals and small businesses that falls under one of the three categories affected by COVID-19 situation:

- **Individual tenants** to whom the employment contract has been suspended / terminated as a result of the situation caused by Covid-19 and have a lease contract or any other document that proves the Lessor-Lessee contractual relationship;
- **Student tenants** who have a rental contract for an apartment or any other document certifying the Lessor-Lessee contractual relationship, which has entered in force prior to the announcement of the epidemic emergency.
- **Physical / legal entities** with yearly income up to ALL 14 million, which have a notarial lease contract for performing their economic activity, that has entered in force prior to the announcement of the epidemic emergency and that been forced to stop their activity due to the situation caused by COVID-19;

The Rent Payment for April and May 2020 will be paid proportionally after May 2020, by mutual agreement between the Lessor and Lessee. For Rent Agreements that expire before May 2020, the outstanding rental payment shall be settled by the Lessee within a 3 months period after May 31st 2020.

The Normative Act has adopted punitive fines up to five times the amount of the monthly rent, for Lessors who fail to obey to this Decision. In such cases, the Lessee has the right to address his/her complaint to the Tax Directory in the following e-mail address: ankesa.qirajaime@tatime.gov.al, with object/ title of Email: NUIS/NIPT in case of Physical/Legal Entities, and/or NID (Unique Identification Number) in case of individuals or students, describing the reason for the complaint and attaching the completed Form published in the website of the General Tax Authority. In order to benefit from the rent relief provided in the Normative Act or other facilities that could be provided by future decisions of the Council of Ministers, individual and student must complete the Form published in the website of the General Tax Authority and apply to the email address qirajaime@tatime.gov.al. Meanwhile, the registered Physical/Legal Entities must apply in their account at e-filing at the Menu: “My cases” by uploading the completed FORM and copy of the Notarized Rent Agreement.

LABOUR LAW

The Government will provide a financial assistance to the small business affected from Covit-19 restrictions.

Conditions and criteria that entities should meet:

1. to have revenues of up to up to 14'000'000 ALL (approx. 108’000 Euro) for year 2019;
2. must have ceased activity during the COVID-19 period.

Beneficiaries of financial assistance are:

1. self-employed persons;
2. unpaid family employees of a commercial natural person;
3. employees of natural persons.
4. employees of legal entities

Procedure:

Eligible entities should complete a form beginning from 1 April to be deposited to General Directory of Taxes with the following information:

1. Taxpayer identification data of the entity registered with NUIS (Taxpayer's Unique Identification Number);

2. Identification data of the individuals, including self-employed, unpaid family workers and employees:

- name, father's name, family name;

- personal identification number of the individual (NID);

- IBAN of the beneficiary's bank account and name of the bank where the beneficiary has the current account.

PRIVACY

The Office of the Commissioner for Personal Data Protection has published two Instructions for the protection of personal data.

On March 2, 2020, was published, the Instruction no. 49 "On the Protection of Personal Health Data". This Instructions aims to adjust the processing of personal and sensitive health-related data. This instruction applies to all natural and legal persons operating in the public or private health care system and it regulates the manner in which health data is spread; their archiving as well as the term of storage of health data; the obligations that must be fulfilled by the entities operating in the field of health care system; the obligation to respect regarding the confidentiality and security of health data; the processing of this data through electronic devices; and the international transfer of health data.

Meanwhile, in light of the COVID-19, the Commissioner has published on 20.03.2020, the Instruction and guidelines for the personal data protection, in the framework of measures taken against COVID-19, which contains some important guidance for Employers regarding compliance with the principles and legal criteria for processing of personal data in the framework of measures taken against COVID-19.

In the framework of preventive measures against COVID-19, both Employers who have engage staff to work from home, as well as Employers who continue to engage their employees in normal workplaces by taking hygienic-sanitary measures and ensuring social distancing in the respective premises, are in the conditions of continuous monitoring of the health condition of their employees, in order to prevent the spread of COVID-19.

The Office of the Commissioner, through the above-mentioned Instruction, clarifies that for the purposes of the measures against COVID-19, in principle, Employers may process personal data of employees (such as data obtained from additional monitoring of their health), in quantity and qualities that - reasonably - exceed the usual processing of the data during normal working conditions.

Processing includes not only collecting and storing processed health data, but also transmitting it to law enforcement bodied charged in the fight against COVID-19, including, but not limited to, bodies authorized by law to conduct epidemiological surveillance.

In any case, the Commissioner stipulates that, the processing of personal data of the respective data subjects may last only as long as the purpose of the processing exists. Consequently, with the disappearance of the pandemic caused by COVID-19, any controller (including Employers and law enforcement bodies) is obliged to delete/destroy the personal data processed in this framework.

REAL ESTATE

According to the Albanian legislation in force foreign citizens can purchase an already build property (i.e.: Apartment/ Villa/ Building) in Albania **without restrictions or limitations.**

The only restriction is related to agricultural land. Based on the laws is force, foreign citizens cannot purchase agricultural land in Albania i.e. meadows, pastures etc., whereas if buying a BUILDING LAND the only restriction for foreigners is that they should invest/build threefold of the value of the land.

Once the client has decided on the house and has accepted the offer, the procedure for performing a diligence on property documents, signing the Contract before the Notary Public and registering the Contract takes usually up to 7-10 days. Upon the registration of the Contract at the National Agency of Cadaster (NAC), it takes from 15-21 days to NAC to issue the Ownership Certificate.

The Real Estate Market has not been suspended and real estate transactions are still functioning during the pandemic. The Real Estate Agencies, Notary Publics and the National Agency on Cadaster are all active and operative throughout the territory.

Despite the limitations on looking at the properties in person, virtual tours of homes have become more popular, as well people are trusting on the photos or videos that are posted online. Moreover, as of Monday, April 27th free movement has started, with fewer restrictions in some cities in Albania that have been less or **not at all** affected by Coronavirus, such as mainly south Albania. This are considered as "Green Areas".

"Green Areas" include:

North-eastern Albania

- Region of Dibra Eastern Albania
- Municipality of Prrenjas, Pogradec and
- Librazhd

Western Albania

- - Municipality of Divjaka.

Southern Albania

- Region of Gjirokastra
- Municipality of Saranda, Konispol, Himara, Delvina and Finiq;

Pre-sale Purchase Contracts/Promise to Sell Agreements/Guarantee Deposit Contracts for booking a Property can be signed remotely (without the presence of the Notary Public). The Final Sale Purchase Contract must be signed before the Notary Public in Albania. The Contract can either be signed by the Buyer/Seller personally, or by an authorized third party by means of Power of Attorney.

If the Power of Attorney is issued by a foreign country, it must be provided with the Apostille stamp in accordance with the Hague Convention 1961 in order to be considered valid in Albania or legalized in case the foreign country is not part of the Hague Convention 1961.

LITIGATION

Normative act no.9, dated 25.3.2020 “ON TAKING SPECIAL MEASURES IN THE FIELD OF JUDICIAL ACTIVITY, DURING THE STATUS OF THE EPIDEMIUM CAUSED BY COVID19” decided to suspended until the end of the Covid-19 epidemic:

- Court hearings in administrative, civil, criminal cases before any court;

- Deadlines for filing lawsuits, filing complaints and performing any procedural action.

Exception to the above rule refer to urgent criminal proceedings, family law urgent procedures, as well as precautionary urgent measures in the administrative court.

TAX LAW

Under the difficult business environment caused by restrictions enacted in the attempt to stop, contain, control, delay and reduce the spread of the virus COVID-19, the government has postponed the deadline for the declaration of the balance sheet and the payment of tax profit, respectively as below described:

- Financial statements, with respective annexes might be submitted until 31 July 2020;

- For small businesses, the tax calculated on the basis of the annual taxable income statement is paid with the respective file declaration within the second half of 2020;

- For small businesses, the tax instalments of the first and second quarter of 2020 are prepaid to the tax authorities' account within 31 December 2020;

- Prepaid instalments of tax on profit corresponding to the third and fourth quarters of 2020, shall be prepaid to the tax authorities' account within 31 December 2020;

- Taxpayers under the category of Simplified Income Tax with annual turnover from 5 (five) to 8 (eight) million, payment of prepaid instalments of simplified tax on profit shall be made:

→for the first and second quarters of 2020 within 20 October 2020;

→for the third and fourth quarters of 2020 within 20 December 2020.

Under the current restrictions enacted in the attempt to stop, contain, control, delay and reduce the spread of the virus, Tax Authority informs that now the taxpayers may present remotely all requests toward the authority in the contacts published in the Tax Directory website (www.tatime.gov.al).

Furthermore, they may perform the payment of tax liabilities through the e-albania portal (www.e-albania.al) or through online banking services provided from second-tier commercial banks in Albania.

FOREIGN INVESTMENTS

As of 26/03/2020, new amendments of the Law No. 108/2013 “On Foreigners” has entered into force and will affect different aspects of Residence, Visa and Work Permit procedures for foreigner employees and self-employees in Albania. Here below we have listed some of the main ones:

a. The procedure to obtain the Work Permit in Albania for citizens who are not from EU or Schengen countries has been simplified, more respectively as follows:

§ The Work Permit is now issued within a 10 days period (before the Work Permit was issued within a 30 days period)

§ The Albanian company/branch of foreign company does not need to file anymore the Employment Offer before the Labor Offices and wait 3 – 4 week in order to start the procedures for Work Permits. Upon the signature of the employment contract, the company may file normally the request for Work Permit.

§ The foreign workers employed in the information technology in Albania are now excluded from the "Quota regime". Such exemption means that the Albanian company/branch of foreign company is not required anymore to respect for this category of employees the principle of "1 foreigner employee for 10 Albanian employees".

b. The procedure of Type Visa within the following 3 will be processed entirely online meaning that the application of the Visa and the withdrawal can be done online through the online official system. The administration of the visa process entirely online means that the foreigner will not need to present himself/herself before any of the Albanian Embassy in the world. Upon the approval of the Visa, the foreigner will need only to print the digital visa that will be sent to via email.

c. The evaluation of the Residence Permit request and the issuance of the Final Temporary Residence Permit are now concluded within 30 days period (before it was 60 days).

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BELGIUM

CHERCHI & PARTNERS, EUROPEAN LAW FIRM

Belgique: quelques mesures « COVID-19 » en matière de droit du travail prises par le Gouvernement belge

La Belgique a dû, comme la plupart des pays ont fait face à la crise du COVID-19, entreprendre une série de mesures en matière du droit du travail.

Nous avons sélectionné, parmi les multiples mesures, celles que nous avons estimé d'intérêt particulier dans le cadre de la présente contribution :

1. *Le chômage temporaire pour force majeure et pour raisons économiques*

En fonction de la situation dans laquelle se trouve un entreprise, la Loi belge a prévu deux types de chômage temporaires auxquels les employeurs peuvent recourir pour leurs travailleurs en cette période:

- Le chômage pour force majeure ;
- Le chômage pour raisons économiques ;

Le premier cas de figure implique la démonstration d'une force majeure, à savoir un évènement soudain, imprévisible et indépendant de la volonté des parties, qui rend l'exécution du contrat de travail temporairement et totalement impossible. A partir du début des mesures de confinement liées à la crise du COVID-19 en Belgique, à savoir à partir du 13 mars 2020, la notion de « force majeure » a reçu une application et une acceptation plus souple. L'exécution du contrat est donc également suspendue pour cause de force majeure comme envisagé par l'article 26 de la loi du 3 juillet 1978 relative aux contrats de travail.

A titre d'exemple, est considérée comme étant une « force majeure » :

- Les travailleurs qui pour des raisons personnelles (vacances) ou professionnelles (voyage d'affaires) ont séjournés dans un pays touché par le COVID-19 et qui, à la fin du séjour, ne peuvent pas revenir en Belgique et reprendre le travail à la date prévue, vu une interdiction de vol ou des mesures de quarantaine;

- Le travailleur qui est mis en quarantaine et ne peut reprendre le travail auprès de son employeur à la date prévue;

- Les entreprises belges qui ne peuvent plus continuer à employer leur personnel en raison de l'arrêt de la production;

Le deuxième cas de figure se rapporte aux situations dans lesquelles une entreprise ne peut plus fournir temporairement du travail à ses travailleurs, en raison d'une diminution du chiffre d'affaires, de la clientèle, de la production.

Que ce soit dans le premier ou le deuxième cas de figure, l'employeur peut demander une allocation de chômage temporaire pour ses travailleurs, ouvrier et employé.es, sous réserve de certaines exceptions dont notamment les stagiaires ou les étudiants, qui correspond à un montant égal à 70% de leur rémunération moyenne plafonnée (plafond de 2.754,76€/mois). A cela s'ajoutent des suppléments d'allocation quotidiens qui diffèrent en fonction des cas de figures précitées, à savoir la force majeure ou les raisons économiques.

2. *Congé parental corona*

Cette mesure a été prise par arrêté royal n°23 du 13 mai 2020.

Ce congé offre la possibilité aux travailleurs qui sont en service depuis au moins un mois de réduire leurs prestations jusqu'à un mi-temps ou à 4/5ème temps, moyennant l'accord de leur employeur, en vue de prendre soin de leur enfant pendant l'épidémie de Covid-19.

Le congé parental corona doit donc en principe prendre cours avant que l'enfant n'atteigne ses **douze ans.**

Options du congé

Les travailleurs à temps plein peuvent prendre le congé parental corona sous la forme d'une réduction des prestations de travail de soit ½, soit 1/5ème du nombre normal d'heures de travail pour un emploi à temps plein.

Procédure de demande auprès de l'employeur

Le travailleur qui souhaite bénéficier du congé parental corona, effectue une demande auprès de son employeur suivant les modalités suivantes :

1° la demande doit être faite par écrit et au moins trois jours ouvrables avant le début du congé.

2° dans cette demande écrite, le travailleur précise les dates de début et de fin du congé parental corona souhaité.

3° cette demande est envoyée à l'employeur soit par lettre recommandée soit par la remise de la main à la main de la demande dont le double est signé par l'employeur à titre d'accusé de réception, soit encore par voie électronique moyennant un accusé de réception de l'employeur.

L'employeur marque son accord ou refuse le congé parental corona suivant les modalités suivantes:

1° L'employeur communique sa décision (accord ou refus) par écrit ou par voie électronique, moyennant un accusé de réception du travailleur.

2° Cette notification doit se faire dans les trois jours ouvrables suivant la demande du travailleur et en tout cas au plus tard avant la prise de cours du congé parental corona.

Lorsqu'un travailleur réduit ses prestations dans le cadre du congé parental corona, il devient un travailleur à temps partiel. Pendant la période de diminution de la carrière à mi-temps ou d'1/5ème temps, les règles relatives au travail à temps partiel lui seront donc en principe également applicables.

Protection contre le licenciement

La protection contre le licenciement établie dans le cadre du régime de l'interruption de carrière est d'application. Cela signifie que l'employeur ne peut faire aucun acte tendant à mettre fin unilatéralement au contrat de travail, sauf en cas de motif grave ou de raison légitime.

La protection contre le licenciement débute au moment de l'avertissement écrit de l'employeur et prend fin trois mois après la fin du congé.

L'employeur qui ne respecte pas cette protection contre le licenciement est tenu de payer une indemnité forfaitaire correspondant à la rémunération de six mois, en plus des indemnités qu'il doit payer en raison de la rupture du contrat de travail le cas échéant.

Durée de la mesure

Le congé parental corona peut être pris pendant la période du 1er mai au 30 juin 2020.

La mesure peut cependant encore être reportée par un arrêté royal délibéré en Conseil des ministres.

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La présente n'est qu'un petit extrait de nombreuses mesures qui ont été adoptées durant la crise sanitaire actuelle, mais il nous semble qu'elle donne suffisamment une idée sur l'attention qui a été portée quant à la protection des travailleurs.

Il sera très intéressant de procéder à une analyse comparée de ces mesures adoptées par le Gouvernement belge avec les mesures adoptées, dans le droit du travail, dans les autres pays et ceci dans le cadre d'une réflexion sur la mondialisation qui fait l'objet, plus que jamais, d'une remise en discussion dans les débats actuels.

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BRAZIL

ARIBONI, FABBRI & SCHMIDT

INTRODUCTION

The outbreak of the Covid-19 pandemic in the beginning of 2020 brought relevant impacts all over the world. Likewise in several countries, the pandemic hit the Brazilian economy and business in general.

In front of this scenario, the local government initiated a series of acts aiming to protect the population health and the economy in general.

Below is a general overview of the main measures adopted by the Brazilian Government face the Covid-19 pandemic crisis.

EMERGENCY MEASURES

Since March 02, 2020, the Federal Government, through its several organs, begun editing several emergency measures in order to supply resources to the economy and help companies. The arrangements vary from facilitating credit to suspension of the payment of taxes, passing through the reduction of salary of employees, being this last measure better explained subsequently.

Moreover, on March 20, 2020, the National Congress approved the declaration of state of public calamity in Brazil until December 31, 2020, in order to ensure that the Federal Government may disobey the fiscal goal of the year and act in the sense of releasing financial or material resources to States and Cities that present requisitions.

Among the several measures adopted by the Brazilian Government until this moment, it is worthy to mention the suspension of collection of tributes enrolled in the active debt of the Union; the delay of payment of federal taxes (PIS, Cofins, Pasep and social security contributions) that should be paid in April and May can now be paid in August and October; there were set up several lines of special credit and temporary suspension of the payment of financing provided by state banks to companies.

The Brazilian Central Bank also took several measures to facilitate credit lines, through banks or other payment methods, in order to strengthen the companies cash capacity in this period.

CONTRACT LAW

The Brazilian Legislation, under the Civil Code – CC – and the Economic Freedom Law (Law 13.874/2019), guarantee the possibility to revise contracts as an exceptional measure. Among the possibilities of reviewing a contract there is the excessive costs resulting from "extraordinary and unpredictable events", claiming force majeure events.

The Covid-19 pandemic has been used as an argument in litigations in order to obtain the suspension, the review or the termination of contracts because it is considered an event of force majeure. Among the results obtained in these lawsuits, there are the momentary suspension of collection, for example, in order to guarantee the economic equilibrium of the obligations contracted, in special by companies that are considered non-essential services and, as such, must remain closed or with the operations reduced.

A phenomenon that is now evident in Brazil is the collection of rent and other expenses originated from shopping centers over shopkeepers and companies that had their gains drastically reduced due to the stoppage or reduction of activities as a result of the restrictions imposed by the government.

Other contractual obligations agreed in foreigner currency, for example loans and credit lines obtained from foreigner creditors are now being discussed, based on the 40% appreciation of the USD and Euro against the local currency Brazilian Reais.

LABOUR LAW

As soon as the pandemic started to affect Brazil, the Federal Government edited the Provisional Measure – "MP" in Portuguese – nº 927/20 that established emergency acts of labor character in order to preserve jobs and income, being its providences valid during the health emergency period and state of public calamity.

Among its measures, the MP 927 guarantees the possibility of the employee carry out remote work (home office) without the necessity of his or the union's prior authorization, as long as the worker is communicated with forty-eight hours of advance and, in case the employee does not have a proper equipment at home, he can borrow the tools and infrastructure services of the employer in order to perform his remote job.

Moreover, such MP allows the concession of advance of individual or collective vacation, as long as the workers that will receive this benefit are communicated with an advance of forty-eight hours about the vacation period, which cannot be inferior to five calendar days. It is also unnecessary that the employer notify the authorities and the category union.

Besides the MP 927, the Federal Government published also the MP nº 936/2020 that establishes the possibility of proportional reduction of work journey and salary, for up to ninety days, as long as certain criteria about the social security situation of the workers are attained; the values of the respective income-hour of the employees must be kept; and that the workers must be communicated with two calendar days of advance.

The reduction of work journey and income must follow specific percentages and defined salary groups, with or without the participation of unions, being possible the reduction in 25% through individual agreement between employee and employer. For a reduction of 50% or 70%, the individual agreement must be applied to the workers that receive up to R$3.135,00 (three thousand one hundred and thirty-five reais). For those that receive a superior salary, the percentage reduction must be collective negotiated.

Another measure was the possibility to suspend the work contract for 60 days, provided that the same period is given as protection after resuming work.

PRIVACY

The government published MP 959/2020, to postpone the the General Data Protection Law – "LGPD" in Portuguese - (Law 13,709 / 18) to May 3, 2021.

This law was created with the aim of protecting personal data in its treatment in digital and physical media, with the objective of protecting the rights of freedom, privacy and free development of the data subject's personality, whether natural or legal person. In its original text, the deadline for its entry into force was August, 2020.

On the other hand, maybe contrary to the LGPD provision, in order to ensure compliance with lockdown measures, several state governments have started to use cellphone monitoring via an agreement with cellphone operators in order to track the consumer's movements.

CORPORATE LAW

Among the obligations that a business must fulfill during its operations in Brazil is to hold a shareholders meeting, in order to apprise the financial statements, elect the officers, and determine the destination of the results of the company. The deadline for such meeting is up to four months from the end of the fiscal year.

However, due to the social distance measures adopted to combat Covid-19, the MP 931 established an exceptional extension of the deadlines for the abovementioned obligations to occur, which may occur within seven months from the end of the fiscal year of companies closed between December 31, 2019 and March 31, 2020.

In addition, also exceptionally and during the lockdown period, such meetings may be fulfilled through videoconference, even without the prior authorization of the bylaws.

LITIGATION

The National Council of Justice – "CNJ" in Portuguese – published the Resolution 313/20 in order to establish an Extraordinary Duty regime for the Brazilian Judiciary in order to standardize the functioning of judicial services and guarantee access to justice in this emergency period, in addition to preventing the contamination from Covid-19. Only the Supreme Federal Court and the Electoral Justice are not affected by the guidelines of this resolution.

Among the measures established, and paying particular attention to the litigious demands, the CNJ determined the suspension of face-to-face work in the judicial units, with the exception of essential services, in order to prioritize remote technological service.

In addition, the suspension of procedural deadlines, from the publication of the rule in question, until April 30, 2020, has been decreed. However, despite this suspension, Brazilian courts still continue to consider requests of an emergency or urgent nature, such as, for example, injunctions or requests for search and seizure.

TAX LAW

In view of the prohibition of most face-to-face commerce in all Brazilian states, some organs have been looking for alternatives to reduce the negative impacts of the pandemic on the country's economy. For example, judges and courts have understood that, through actions with injunctions requests, it is possible that the taxpayer company may obtain the suspension of federal, state and city taxes.

Although such decisions are not uniform across the national territory, it has been noted that there is a greater likelihood of obtaining the suspension for companies located in municipalities and states that have decreed a State of Public Calamity, such as, for example, São Paulo and Minas Gerais.

Government measures to suspend importation taxes over certain medical products were also implemented, reducing costs for the COVID-19 fight.

Other measures to postpone deadline for fiscal obligations, as tax declarations were implemented, setting new dates for IRS filing for individuals and companies, to the end of June.

FOREIGN INVESTMENTS

Brazilian Central Bank regulation set forth a series of declarations for local companies and individuals that hold interests or assets abroad. Due to the fact that Covid-19 outbreak,

the annual declarations deadline were extended according to Circular Letter Nº 3.995/2020.

In addition, due to relevant devaluation of the local currency Real (approx. 40% in the year), foreign investors are in a privileged and opportune position to invest in Brazil.

INTELLECTUAL PROPERTY RIGHTS

Regarding to intellectual property rights, the National Institute of Industrial Property – "INPI" in Portuguese – established the Ordinances nº 120, 161 and 166 of 2020 in order to suspend deadlines for all processes, regardless of their nature. Therefore, the suspension is valid for all cases, for example, to oppose a request of patent, the payment of fees, appeals, etc.

Moreover, in order to streamline the access of the population and companies to products, pharmaceutical processes, equipment and materials related to health in the short, medium and long term, the INPI created a priority procedure for patent applications related to treatment of Covid-19.

The fast track measure was created in order to stimulate the development of new technologies in the health area, in addition to reducing the time needed to decide on the patent application. Furthermore, the requisition for the patent application does not need to make an explicit mention of the new virus, and should make a clarification that the application contains the relation to the treatment of Covid-19 and/or its symptoms.

CONCLUSIONS

In view of the above, it is evident that drastic measures are essential to preserve legal security in Brazil and guarantee the maintenance of companies and jobs in the face of the Covid-19 pandemic, being certain that while the calamity situation lasts, new government measures will be published to meet the demands of the economy and the life of businesses and citizens alike.

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China

Jingtian & Gongcheng

Introduction

After the first case of COVID-19 was found in Wuhan in late December 2019, the prevention and control measures kept upgrading: many cities were under rigid lockdown, social-distancing was strictly enforced and many business entities were temporarily closed. The COVID-19 outbreak has undoubtedly had a severe short-term impact on the Chinese economy. Fortunately, now the daily life and economy are back on the track gradually. Domestic GDP growth is forecast to turn positive within the next few months, followed by a significant rebound in 2021. Headline indicators of business activity had largely returned to pre-outbreak levels by the end of March.

China was first to be affected by COVID-19 and is therefore further along the road to recovery than other countries. Chinese government has adopted various preventive and control measures of co-ordinated approaches against the COVID-19, which appears to have shielded the economy from a deep and prolonged downturn.

Emergency Measures

Beginning in January, the Chinese government issued various guidelines to prevent the spread of COVID-19, many of which were focused on prevent and control the outbreak within individual districts and cities. More than 80 cities including Beijing, Shanghai, Guangzhou and Shenzhen publicly announced such closed-off community management measures after the announcement of the Wuhan lockdown. Restaurants, gyms, cinemas and fashion were ordered to close or curtail their operating hours following the Wuhan lockdown. Restrictions on public transport and social gatherings were strictly implemented, such as public transport services were partially ceased for few weeks, subways reduced passenger volume and shortened operating hours and many flights to those cities severely hit by COVID-19 were suspended. Further, the restrictions on international travel and the close monitoring on persons entering China make the transnational commercial activities also very difficult.

With the slowdown of the spread of the COVID-19, the resumption of work has taken place gradually and remains subject to measures to prevent a second wave of COVID-19. Meanwhile, various supportive measures are in place aiming to mitigate the adverse impact on the manufacturers, suppliers, consumers and labour relationship, etc.

Contract Law

Due to the adverse impact of COVID-19, many entities are unable to promptly perform the contractual obligations and thus facing the risks of taking responsibilities for breach of contract. Whether the outbreak of COVID-19 will constitute a force majeure event and exempt the affected party from contractual performance has been a crucial issue for many manufacturers and suppliers.

On February 10, 2020, the spokesman of the Legislative Affairs Commission of the National People’s Congress of PRC has stated in a press conference that the outbreak of

COVID-19 should be considered as a force majeure event and the affected party could therefore be wholly or partly exempted from liabilities in accordance with the PRC Contract Law.

Furthermore, the Supreme People's Court issued the *Guiding Opinions on Several Issues Concerning the Proper Trial of Civil Cases Related to the COVID-19 Epidemic According to the Law* (最高人民法院印发《关于依法妥善审理涉新冠肺炎疫情民事案件若干问题的指导意见（一）》的通知) on April 16, 2020. According to these Opinions, in trying the civil cases involving the epidemic, the court shall accurately apply specific provisions on force majeure and strictly assess the application conditions. The civil disputes arising due to direct impact of the epidemic or the epidemic prevention and control measures, if meeting the statutory elements of force majeure, shall be properly handled by applying relevant provisions of the *General Provisions of Civil Law of the PRC* (《中华人民共和国民法通则》) and the *PRC Contract Law* (《中华人民共和国合同法》).

Labour Law

COVID-19 also has a significant impact on the labour relationships between an employer and its employees in China. The human resources and social security authorities have taken a series of supportive measures to maintain the stability of the labour relationship with the consideration of the interest balance of both the employer and its employees.

According to the *Circular on Provisionally Reducing and Exempting the Social Insurance Contributions borne by Enterprises* (《关于阶段性减免企业社会保险费的通知》) jointly issued by Ministry of Human Resources and Social Security , the Ministry of Finance and the State Taxation Administration, employers shall be exempted from making full or part of the contributions to social insurances including pension, unemployment and work-related injury social insurances for a prescribed period from February 2020, depending on the business size of the employer. Such as for middle and small-sized employers, the contributions to social insurances will be wholly exempted for a period of 5 months. Furthermore, for employers severely impacted by the COVID-19, they may apply for deferred payment of social insurance contributions for no more than six months, free of late charges or penalties. Also the employers may apply to defer the contributions to the housing provident fund until the end of June, 2020.

Supportive measures has also been taken in place to minimize the possible lay-offs. Employers in China may get refund of a portion of their contribution to unemployment insurance if they retain all or most of the employees throughout the epidemic period.

Big cities with large-scale labour forces and enterprises such as Beijing, Shanghai, Guangzhou and Shenzhen have promulgated more detailed rules on the conditions and application procedures for such refund.

Privacy

It has been a hot topic around the world for the privacy related to pandemic management. Questions about ethics and compliance for data collection, analysis and transmission are being raised in many counties. Though big data plays an important role in the combat against the COVID-19 in China and is widely used in tracing cases, assisting medical treatment, and advancing resumption of work and production, it also amplifies the risks of infringement of personal data and information.

Based on the existing laws, regulations and national standards, the Chinese government has issued relevant rules for using big data in prevention and control of the COVID-19. On February 9, the Cyberspace Administration of China released the *Notice of Effectively Protecting Personal Information and Using Big Data to Support Joint Prevention and*

Control (《关于做好个人信息保护利用大数据支撑联防联控工作的通知》) ("Notice"), which sets out relevant legal basis and technical specifications to clarify the applications of laws and regulations on use and collection of personal data.

According to the Notice, only entities that are authorized by the health department of the State Council in accordance with the *PRC Cybersecurity Law* (《中华人民共和国网络安全法》), the *PRC Law on the Prevention and Treatment of Infectious Diseases* (《中华人民共和国传染病防治法》), and the *Regulation on Responses to Public Health Emergencies* (《突发公共卫生事件应急条例》) are allowed to legally collect personal information for the prevention and control of the COVID-19. Any other entities shall not collect personal information without obtaining consent from individuals. The collection of personal information for the prevention and control of the COVID-19 shall adhere to the requirements outlined in the *Information Security Technology – Personal Information Security Specification* (《个人信息安全规范》), and in particular, to the principle of data minimization. Personal information collected for the prevention and control of the COVID-19 shall not be used for any other purposes. Unless sensitive personal information is masked, and the purpose is to for the prevention and control of the COVID-19, personal information, such as name, age, identification card number, phone number, home address, etc., shall not be disclosed without the consent of the individuals.

TAX LAW

At the beginning of the outbreak of COVID-19, the tax authorities implemented tax preferential measures to minimize the tax burden for those enterprises severely hit by COVID-19. According to *the Announcement on Tax Policies for Supporting the Prevention and Control of COVID-19* (《关于支持新型冠状病毒感染的肺炎疫情防控有关税收政策的公告》) published by the Ministry of Finance and the State Administration of Taxation, the VAT for enterprises engaging transportation, household services and express delivery services will be fully exempted. For small-scale taxpayers, VAT rate is lowered from 3% to 1% (with a total exemption for enterprises in Hubei Province) from –March to May 2020. Also for the corporate income tax calculation and contribution, the carry-over period for losses incurred in 2020 can be extended from 5 years to 8 years for catering and hospitality, tourism and transportation industries and the expenses for equipment investment to expand production can be 100% deducted.

The tax authorities have taken a series of supportive measures on tax burden relief for enterprises. Except for certain products for high contamination, high energy consumption and resource intensive, VAT refunds on exported products will be fully ensured. Starting from Mach 30, 2020, the VAT refund rate for almost 1,500 exported products has been increased. These measures will help reduce the costs for enterprises with exportation business.

FOREIGN INVESTMENTS

The People's Bank of China and the State Administration of Foreign Exchange have jointly issued the *Notice on Adjusting the Macro-prudent Adjustment Parameter for Cross-border Financing* (《关于调整全口径跨境融资宏观审慎调节参数的通知》) on March 12, 2020, pursuant to which, the macro-prudence adjustment parameter, which is used to calculate the foreign debt quota for a PRC entity, will be increased from the original 1 to 1.25. This would enable the PRC entities to borrow more foreign debt to continue business operation during the COVID-19 pandemic if the entity adopts the macro-prudence system for borrowing foreign debt.

The Ministry of Commerce also has issued the *Notice on Stabilizing Foreign Trade and Foreign Investment and Boosting Consumption during Epidemic Period* (《关于应对新冠肺炎

疫情做好稳外贸稳外资促消费工作的通知》) implementing 20 measures to improve governmental services to foreign-invested entities (the FIEs). Such measures include, supporting the work resumption of FIEs, supporting the issuance of proof of force majeure for epidemic reasons to FIEs, and providing timely services to large foreign-invested projects under construction.

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Croatia

Odi Law

Introduction

The Republic of Croatia through Civil Defence Headquarters adopted series of provisional legal measures in order to prevent and limit the spread of the COVID-19 disease and to provide urgent financial support to companies and citizens. With social distancing measures currently slowly relaxing and the business correspondingly reviving, the recently adopted legislation is intended to aid citizens, employers, companies and the economy as such.

Emergency Measures

Social distancing measures are mandatory under the Decision prescribing necessary measures concerning social distancing, work of shops, provision of services and holding of sports events during COVID-19 epidemics[1]. Respective Decision temporarily prohibited on the gathering of over 40 people (as of 18 May 2020) at public meetings at public events as well as any outdoor or indoor sporting events in the Republic of Croatia ("**Social Distancing Decision**"). Distance of 2m indoors and 1m outdoors should be observed.

Furthermore Decision concerning general prohibition to leave place of residence was in effect during COVID-19 epidemics [2] ("**Movement Restriction Decision**"). Movement Restriction Decision limited movement of people and prescribed passes which were available online (ePasses) as mandatory. In order to be eligible to pass person would have to present justified valid reason to travel outside of place of residence. The respective Movement Restriction Decision was in effect until 11 May 2020. Certain restriction remain in effect with respect to Dalmatian Island of Brac.

As of 11 May 2020 shops and a number service sectors resumed with work provided they meet certain criteria and follow strict distancing and hygiene rules. Those services sectors include bars and restaurants, hair salons, etc.

Contract Law

General contract law provision are contained in the Obligations Act[3]. There were no specific changes with regards to the general contractual relationships.

Regarding loans and leasing, Croatian Bank for Reconstruction and Development ("***HBOR***") in cooperation with locally present banks introduced new loans and moratoriums on loans and leasing, in order to provide aid to citizens as well as domestic economy. HBOR's clients, who have been granted a direct loan, can take a moratorium from 1 April 2020 to 30 June 2020 on unpaid obligations maturing from 1 March 2020 to 30 June 2020 with a possibility of extension should the adverse impacts of the COVID–19 pandemic on the economy last for a longer period of time. HBOR client have also been offered a possibility to reschedule their existing loan obligations towards HBOR. The rescheduling includes the

[1] *Official Gazette of the Republic of Croatia no. 51/20, 54/20, 55/20, 56/20.*
[2] *Official Gazette of the Republic of Croatia no. 35/20, 39/20, 44/20, 48/20.*
[3] *Official Gazette of the Republic of Croatia no. 35/2005, as amended.*

possibility of extending loan disbursement, grace and repayment periods by 6 months. Each client must negotiate rescheduling individually.

Guarantees and insurance policies are envisaged which shall be provided to commercial banks of exporting companies and HBOR within the scope of the Export Insurance Guarantee Fund. Many Croatian banks signed with HBOR the Portfolio Insurance Agreement for Exporters' Liquidity Loans – COVID-19 which enabled the granting of overall more than HRK 5,2 billion in liquidity loans covered by HBOR's insurance.

Furthermore Croatian National Bank issued recommendation to all Croatian Commercial banks which should further (i) ensure suspension/deferral of initiation of enforcement and/or other collection proceedings against any legal entities or real persons for the period of 3 months (please also refer to Litigation section below); (ii) provide loans for liquidity with repayment periods of up to 3 years; and (iii) enable refinancing of existing loans without classifying loans as non-performing.

LABOUR LAW

A cluster of labour law measures in order to preserve work posts were adopted. These measures are divided into three types, namely:

(i) measures to preserve work posts in activities directly affected by Coronavirus:

- as of 01 March 2020 and for duration of up to 3 months;
- financing measures for employers in the amount of (a) HRK 3,250 (approximately EUR 440) for March for part time employed employee; or (b) HRK 4,000 (approximately EUR 540) for full time employee;

(ii) other measures to preserve work posts:

- up to 6 months;
- financing measure pertaining to part time employment of not less than 40% of work time in the amount of up to 40% of employee's gross salary, however not more than minimum salary;
- financing of employees education.

(iii) measures for preservation of work posts specifically in textile, clothing, footwear, leather and wood processing industry:

- up to 24 months or up to EUR 200,000 during 3 year period (prescribed by *de minimis* aid rules);
- subsidies amounting to 50% of employee's minimal salary, increased for contributions amounting to HRK 2,366.41 (approximately EUR 320) for year 2020;
- financing of employees education.

In addition most Croatian Collective Bargaining Agreements prescribe special allowances in case of extraordinary work conditions, which could in most cases be applicable to working safety during Coronavirus crisis.

Croatian Ministry of Tourism and the HBOR have concluded „The Business Cooperation Agreement on the Implementation of Measures for Ensuring Liquidity for Entrepreneurs in

the Tourism Sector", which enables the approval of HBOR's direct interest-free loans. Loan application will be submitted to directly to HBOR, which will approve the funds for a period of up to five years with the possibility of using a grace period of up to one year. Owing to subsidy funds, interest rate can be zero percent for the repayment period of up to three years, and in the fourth year and the fifth year of repayment, interest rate can be 1.5 percent (the interest rate depends on state aid regulations). The minimum amount of loan that can be applied for is EUR 100 thousand, whereas the maximum amount is limited to EUR 1.25 million in HRK equivalent amount. The funds will be available for financing salaries, overheads and other basic operating expenses, preparation of the tourist season, settlement of accounts payable and other expenses, except for credit obligations to commercial banks, other financial institutions or VAT liabilities.

PRIVACY

No new piece of legislation was adopted regulating privacy law to assist the authorities in managing the COVID-19 epidemic. Therefore for privacy protection the General Data Protection Regulation applies.

CORPORATE LAW

Croatian Financial Services Supervisory Agency (**HANFA**) imposed restrictions on profit payments to insurance companies until 30 April 2021.

Republic of Croatia adopted series of measures in order to provide aid for sole traders as well as Micro, small and medium-sized enterprises.

HBOR envisaged two types of measures, which are both loans intended for different types of borrowers, namely:

(i) Working Capital COVID-19 Measure intended for:

(a) Private sector business entities – e.g. companies, crafts businesses, sole traders, family farms, cooperatives and institutions; and

(b) Public sector business entities – companies and other entities (agencies and institutions, etc.) owned or majority-owned by the units of local or regional government and/or the Republic of Croatia.

Respective entities have to present negative consequences of the COVID-19 (coronavirus) pandemic.

Purpose of respective loans is (a) financing of current business operations (e.g. purchase of raw materials, production materials, semi-products, small inventory, settlement of obligations towards suppliers, labour costs, general current operating expenses); and (b) settlement of short-term obligations towards the state and settlement of other short-term obligations, excluding the repayment of debt to the owner, related entities and other third persons as well as excluding the settlement of loan obligations towards commercial banks and other financial institutions.

Parameters of respective Loans:

- minimum loan amount is HRK 100,000.00 (approximately EUR 13,500);

- maximum loan amount depends on the specific features and creditworthiness of the borrower, purpose and structure of transaction as well as available HBOR's sources of finance;
- up to 6 months disbursement;
- up to 3 years repayment with 1 year moratorium;
- in HRK indexed to EUR or HRK;
- no fee;
- Collateral determined by the commercial bank participating in the programme;
- 2 % p.a. interest rate, fixed on HBOR's share in the loan under the risk-sharing model (with possibility to reduce to 0,0 in first year).

Second type of envisaged loans by **HBOR**:

(ii) COVID-19 for SMEs in the Tourism Industry are implemented under the loan programme Working Capital, and it applies to applications received and approved by HBOR by 31 December 2020 or until the funds provided for this purpose have been exhausted. Applicants are not automatically entitled to obtain a loan. HBOR makes a decision on each individual application. Entitled entities are SMEs with registered main activities:

(a) Accommodation and food service activities (National Classification of Activities – NKD 55.10, 55.20, 55.30, 55.90, 56.10, 56.21, 56.29);

(b) Travel agency and tour operator activities (NKD 79.11, 79.12);

(c) Renting and leasing of water transport equipment – charter agencies (NKD 77.34);

whose business activity has been reduced or completely discontinued as a result of extraordinary circumstances caused by the COVID-19 pandemic in the following manner:

1) a decline in operating income/receipts in Q1 2020 has been recorded compared to Q1 2019 or lower operating income/receipts are expected for 2020 than operating income/receipts for 2019; and/or

2) reservations, events, congresses, seminars etc. have been cancelled; and/or

3) contracted business, reservations and/or orders have been cancelled.

Loans with following parameters are envisaged:

- minimum loan amount is EUR 100,000.00 in HRK equivalent amount;
- maximum loan amount is EUR 1,250,000.00 in HRK equivalent amount, but generally no more than 25% of the total operating income/receipts of the borrower and dependant on the creditworthiness of the borrower and the evaluation of the transaction risk;

- 0.00% p.a., fixed for the loan repayment period up to 3 years;
- 1.50% p.a., fixed for the repayment period from the 4th to the 5th year;
- no fees are charged;
- in certain cases, interest rate can be higher depending on the cost of the available sources of funding and the regulations on the award of state aid and/or *de minimis* aid;
- collateral in the form of insurance policies for exporters' working capital loan portfolio or by a HAMAG-BICRO guarantee, in accordance with the rules of the Export Credit Insurance and HAMAG-BICRO, as well as by bills of exchange and debentures;
- exceptionally, and depending on the risk assessment of the transaction and the borrower and depending on the availability of the collateral in relation to each individual transaction and the borrower, HBOR is authorised to negotiate other collateral with the borrower in accordance with HBOR's internal documents;
- loans cannot be granted to entrepreneurs that were in difficulties on 31 December 2019 (in accordance with the provisions of Article 2 point 18 of the Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187 of 26 June 2014).

Ministry of Regional Development and EU Funds; **Ministry of Economy, Entrepreneurship and Crafts of the Republic of Croatia**; and **Croatian Agency for SMEs, Innovations and Investments (HAMAG-BICRO)** further adopted measures for SME, such as loans, deadline extensions and compulsory redemptions. Following measures are envisaged:

(i) Increase in funds allocated for revolving ESIF Micro loans 'ESIF Mikro zajmovi' for micro and small entrepreneurs (EUR 1,000 – EUR 25,000, 12 months grace period; reduced interests from 0,5% – 0,75% - 1,0%);

(ii) decrease in interests rates for loans with 30% participation in case of ESIF Micro and Small loans 'ESIF Mikro i Mali zajmovi' to 0,1% - 0,25% - 0,5%;

(iii) increase in guarantees for ESIF individual guarantees 'ESIF pojedinačna jamstva' for revolving loans from 65% to 80% of principal;

(iv) 90 days extension of projects and deadlines due in March, April and May;

(v) confirmations regarding percentages of claimed expenses from certain operating programs;

(vi) establishment of new financial instrument i.e. loans „COVID-19 loans“ for SME; and

(vii) compulsory redemptions in food production and processing industry.

Ministry of the Sea, Transport and Infrastructure adopted following measures:

(i) suspension of obligations concerning provisions of universal services;

(ii) suspension of fees for extraordinary transport via public roads until 1 June 2020;

(iii) seasonal 10% toll increase for vehicle groups IA, I and II is temporary suspended from 15 June to 15 September 2020;

(iv) seasonal "winter" ENC discount (expires on 31 March) is extended until 1 June 2020. Additional 7% discount is available for vehicle groups EURO VI, III and IV which use ENC based on post-paid credit/ oil card, for one year;

(v) validity of certificates and other documents in International and national water transportation is temporary.

Additional similar measures are also adopted by Ministry of Agriculture and Ministry of Tourism.

Special measures were imposed with respect to enforcement and bankruptcy proceedings, which shall be further presented in Section Litigation hereunder.

LITIGATION

Provisional measures do not directly affect litigation and courts work on court to court decision.

However adopted measures do regulate enforcement and bankruptcy proceedings which indirectly affect litigation proceeding during the COVID-19 epidemic. On 30 April 2020 (in effect as of 01 May 2020) Act on intervention measures in enforcement and bankruptcy proceedings during special circumstances[4] was adopted ("***Judicial Proceedings Act***").

The Judiciary Proceeding Act prescribed suspension of (i) enforcement; and (ii) bankruptcy proceedings in Republic of Croatia during the time of epidemics. In case of the former certain exemptions apply in urgent cases such as children's alimony, workers' salaries etc., as well as in cases subject where appointed judge decides that it is urgent to proceed with respective proceeding.

In case of latter any bankruptcy reasons occurred during the epidemics shall not constitute predisposition for initiation of bankruptcy proceeding. Bankruptcy proceeding can still be initiated upon motion of the debtor of Croatian Financial Agency (**FINA**) for protection of interest of Republic of Croatia and health of persons or protection of environment.

Judicial Proceedings Act also prescribes suspension of Statutory Default interests.

Judicial Proceedings Act should be in effect for 3 months as of its coming into force and can be prolonged by respective Decision adopted by Government of Republic of Croatia.

TAX LAW

Croatian Ministry of Finance adopted measures pertaining to Tax and/or Contributions payment obligations. Respective measures envisage:

(i) deferral of payment of corporate profit tax, personal income tax and social security contributions for "3+3" months with possibility of payment in instalments. Following expiration of deadlines, payments for tax liabilities possible in 24 monthly instalments;

(ii) incentives for self-employed persons include exemption from corporate profit and personal income taxation; and

(iii) personal income tax (and city tax) shall be refunded to individuals earlier than usual.

[4] *Official Gazette of the Republic of Croatia no 53/2020*

Foreign Investments

Adopted measures do not affect foreign investment protection in the Republic of Croatia.

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CZECH REPUBLIC

SCHAFFER & PARTNER LEGAL SRO

INTRODUCTION

The Czech government has applied very cautious approach while handling the coronavirus pandemic, which caused total or almost near total shutdown of the economy and public life, including courts and public offices. The subsequent measures to mitigate the negative economic effect of these preventive restrictive measures were numerous and talks of their scope and extent are still underway, as new emergency measures are being rolled out almost every day. The following listing is the summary of the legal situation and the most important measures that are currently in effect.

EMERGENCY MEASURES

The Czech Republic was one of the first European countries, which responded to the coronavirus-crises and enacted the necessary regulation.

Based on the Constitutional Act No. 110/1998 Coll., on the Security of the Czech Republic, as amended, in connection with the Act No. 240/2000 Coll., Emergency Act, as amended, the Czech government declared the state of emergency as of March 12th, 2020. The declaration has the form of a governmental resolution No. 194. The state of emergency has been later extended until May 17th, 2020.

With the reference to the declared state of emergency the Czech government has adopted further resolutions to set various restrictions, bans and orders for individuals and entrepreneurs which led to a lockdown.

Similar restrictions were also adopted by the Ministry of health. However, these measures were successfully contested. The court cancelled the measures due to their illicitness.

As the pandemic situation is improving the government starts to ease the restrictions step by step. At the same time the government adopts new regulations to mitigate the negative impacts of the lockdown.

The most important measures to help entrepreneurs to overcome difficulties they are facing is the Covid I, Covid II, Covid Prague programme and the “25” programme for the self-employed (sole traders) and shareholders of a small limited liability company (LLC).

The applicants to COVID I programme could receive a credit from the government, while other programmes provided state guarantee for commercial credit. Subsidized by the state were also the payments of interest on said loans.

The capacity of each programme was always very quickly exhausted because of the very limited funds provided for the programmes.

Currently, the programme COVID III is being planned, the capacity of which should amount to approx. CZK 600,000,000,000. Around 120,000 applications could be supported (during the previous programmes, not more than a thousand applications have been approved).

Self-employed workers or active shareholders of small LLCs whose business activities were negatively affected by the restrictive preventive measures of the government are entitled to a compensation bonus under the programme called “Twenty-five”.

Apart from being an active self-employed worker, or an active shareholder of a small LLC, the petitioner had to be limited in his economic activity in the form named by the Ministry of Finance. The petitioners are entitled to a bonus in the amount up to CZK 25,000, for a period from March 3rd, 2020 to April 30th, 2020, depending on for how long their economic activity was limited.

CONTRACT LAW

In connection with the COVID-19 pandemic various new measures, which affect contractual relationships have been taken.

A moratorium proposal on the repayment of loans and mortgages signed before March 26th, 2020, which will be binding on all banks and non-banking companies, has been adopted. The debtors may suspend their repayments upon their individual request for three or six months. Moratorium period lasts until October 31st, 2020 or July 31st, 2020 – depending on the debtor's request. The due date of instalments is postponed after the moratorium period. This moratorium applies only to mortgages and loans, which have been concluded before March 26th, 2020 and were overdue on this date not more than 30 days.

Should the debtor prove that the restrictions resulting from the exceptional measures against the epidemic have hindered him to pay the money debt in due time, the creditor is entitled to require the sanction for the delay only until the amount set by the statutory law for delay interest.

New act prohibiting lessors from terminating commercial leases if lessees fail to pay rent was adopted. From April 27th, 2020 until December 31st, 2020 is the lessor not entitled to terminate the lease solely on the ground that the lessee is in delay with payment of rent if the delay results from the emergency measure adopted by the Czech Government against the coronavirus and the delay occurs in the period from March 12th, 2020 till the day following the end of the emergency measures, but no later than by June 30th, 2020. Also, a ban has been adopted on terminating the residential leases if tenants are not able to pay rent due to financial distress caused by COVID-19 pandemic. Further, it is not allowed to increase the rent for apartments until the exceptional measures in connection with the pandemic will be cancelled.

LABOUR LAW

Within the Antivirus program employers affected by the coronavirus crises may apply for a state subsidy to finance their employees' salaries. The Employment office will pay 60-80% of the salary depending on the situation and circumstances. This regulation and program has been adopted to cover (partly) salary costs and to prevent thereby layoffs and increase of unemployment rate.

When the employer wishes to apply for the subsidy he/she is not allowed to give notice to the employee whose salary should be compensated by the subsidy.

This program is valid as of March 12th, 2020 until the end of May 2020. The online application for the subsidy is to be addressed to the relevant Employment office that is also responsible for the payment of the subsidy.

There are 2 categories of employers authorised to apply for the subsidy.

First category includes employers forced to shut down or restrict the operation of their businesses with respect to the state of emergency. The employers whose employees are isolated in quarantine also fall into this category.

These employers may apply for subsidy amounting to 80% of the compensation of salary paid to the employee. The maximum amount of the monthly subsidy per employee is CZK 39,000.

The second category includes employers who are not able to assign work to their employees because of the lack of input material, services or key employees or the sales decrease.

In this case the subsidy amount to 60 % of the salary paid to the employee and the maximum amount of the monthly subsidy per employee is CZK 29,000.

Further measures include protection of employees in case of insolvency of an employer. Since insolvency petitions filled between April 24th, 2020 and August 31st, 2020 are not to be taken into consideration, the employees have been therefore deprived of the possibility to claim their wages from their employers, Ministry of Labor and Social Affairs has been pushing a legislation, which will allow the employees to receive their wages via the Labor Office.

Moreover, the obligation of the employer towards the Labor Office to pay the amount which has been paid to the employee by the Labour Office as well as the amount corresponding to the mandatory contributions and deductions under the Act on the Protection of the Employees in Case of Insolvency of an Employer has been renewed.

PRIVACY

In connection with the effort to prevent the spread of the disease, a project so called "smart quarantine" was created in cooperation with the Czech Army. The smart quarantine should work on the basis of searching for the electronic track of a person with whom people infected with coronavirus have come into contact. The electronic track is determined from the GPS coordinates of the mobile phone and the data on card payments. Smart quarantine is intended to map the contacts of positively tested individuals for COVID-19 and to help regional hygiene stations trace any other potentially infected people.

As of 30 March 2020, the smart quarantine project has started up in test mode. For the processing of location data was required the consent of the infected person.

CORPORATE LAW

Due to the restrictions of gatherings, it is not possible to convene General Meetings of corporations in the way that the shareholders or their representatives physically attend the General Meeting. However, it is possible to convene and attend the General Meeting by "technical devices," which is a legislative term encompassing various video- and teleconference technologies. Previously, it was only possible to convene a General Meeting by technical devices if the articles of associations of the corporation permitted it. Under the emergency measures, it is however possible to convene and attend the general meeting by technical devices, even though the articles of association do not mention this possibility. The same applies for the General Meetings decided *per rollam* (voting by letter).

If the tenures of voted bodies of corporations were to end during the effect of the emergency measures, the tenure is automatically prolonged and ends only after three months after the end of the effect of the emergency measures. The members of the bodies can still voice their disagreement with the prolongation in a written form, which causes the non-application of the prolongation.

Financial statements of limited liability companies, joint-stock companies and cooperatives, which have to be approved under normal circumstances usually until June

30, can now be approved three months later, with December 31, 2020 being the latest possible date.

The company and its representative are not obliged to file insolvency petition until 6 months after the exceptional measures in connection with the epidemic will be cancelled, however until the end of 2020 at the latest. The insolvency has to be established after the measures taken in connection with the epidemic or to be result of the circumstances connected with the exceptional measures against the epidemic.

The court will not decide on any insolvency petition filed by creditors until August 31st, 2020. The fulfilment of the reorganisation plan may be postponed upon request of the debtor.

LITIGATION

On the basis of the Act No. 191/2020 Coll., on some measures to mitigate consequences of the coronavirus epidemic SARS CoV-2 for parties to the court proceedings following changes have been made:

a party to the proceedings which has missed a deadline due to restrictions following from the measures in connection with the epidemic may apply for a relief of the missed deadline. This de facto deadline prolongation concerns civil proceedings, as well as administrative court proceedings, criminal enforcement and insolvency proceedings.

The sale of movable assets or real estate (in case the debtor has its permanent residence in it) within the enforcement proceeding is suspended until June 30th, 2020.

TAX LAW

The Ministry of Finance has pushed various deadlines and forgiven fines with regards to the tax collection in the Czech Republic.

The most important being the push of the income tax statements until the July 1st, 2020 for all subjects, while the deadline would be July 1st, 2020 for most subjects under normal circumstances.

The fines for late submission of control reports for the purposes of the payment of VAT are generally forgiven. Apart from that, all fines imposed due to the errors caused directly or indirectly by the COVID-19 disease pandemic can be forgiven on case-by-case basis. The fines for late submission of acquisition of real estate tax reports are also forgiven. Moreover, the Czech Government has adopted a bill on abolition of Real estate acquisition tax with retroactive effect. Anyone who acquired the property in December 2019 at the latest will be exempted from the obligation to pay the tax. Already paid taxes will be refunded.

All waves of the so-called "EET" (electronic sales reporting) will be postponed. The postponement will affect the business owners of the first and second wave of the EET as well as those, who were supposed to record their sales starting on May 1st, 2020.

The EET was originally halted by a special act issued in March that has the obligations under the EET Act postponed for a period of three months, i.e. to June 2020.

The 10 % reduced VAT rate for some goods and services which was originally meant to compensate for the administrative measures in regards to the introduction of the electronic sales reporting for new subjects will however still apply.

Moreover, it is still possible to apply for a tax deferral for reasons previously applicable, with the Finance Authority forgiving the application payment of CZK 400.

FOREIGN INVESTMENTS

For the foreign investments funds who invested money into shopping malls or office spaces might focus on the program COVID concerning the rentals for business premises.

The government intends to pay 50% of rentals in case that the landlord reduces the rental by 30%. Therefore a new round of negotiation of the rentals might be expected.

Further the Ministry of regional development wants to grant credits to promote entrepreneurs in the tourism industries.

Accommodation providers, hospitality providers, travel agencies and interpreters etc. may benefit from this programme and apply for a credit. The credits should be free of interest and payable in 4-5 years, which provide enough time for the entrepreneurs for their recovery.

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FRANCE

SAGASSER TAX & LAW

INTRODUCTION

In March 2020, French authorities have introduced (i) strict restrictions on movement of the population and (ii) ordered the administrative closedown of many activities (schools, cafés, restaurants, hotels, etc.) so as to limit the propagation of the Covid-19 Pandemic.

In a view of minimizing the impact of these restrictions on French economy, French authorities have adopted several support measures from the deferral of tax payments to the generalization of home office work and State guaranteed loans.

The most important restriction and support measures are described thereafter.

EMERGENCY MEASURES

Declaration of state of health emergency in France

France initially declared the state of health emergency until 24 May 2020[5].

An extension thereof is in the process of being decided until 10 July 2020.

End of general lockdown

The lockdown in France ended on 11 May 2020. However, restrictive measures shall continue to apply:

- persons may not travel further than in a radius of 100km from their place of residence
- Quarantine measures shall apply to persons arriving in France from areas where the virus is still spreading, for a period that shall not exceed 14 days. These measures do not apply to persons travelling from EU member states, Schengen area or the United-Kingdom.
- Teleworking remains strongly advised when possible.

Most shops reopened upon the end of lockdown on 11 May 2020 and cafés and restaurants are expected to reopen in June.

Schools are to gradually reopen in areas where the spread of the virus is limited, whilst health measures to limit the spread shall have to be implemented (no more than 10 or 15 students per class, rotative measures, etc.): [6]

- Nursery schools and primary schools in green and red areas are to reopen as of 11 May,

[5] *Article 4 of the Act of 23 March 2020.*

[6] *Circulaire of 04.05.2020; https://www.education.gouv.fr/bo/20/Hebdo19/MENE2011220C.htm.*

- Secondary schools in green areas are to reopen on 18 May.

State guaranteed loans for companies experiencing financial difficulties

On Wednesday 25 March 2020, the French Government set up a guarantee mechanism via the *Banque Publique d'Investissement* (BPI France) for loans granted by French banks to French companies experiencing difficulties in the context of the current health crisis.

This measure applies to businesses of all sizes, regardless of their legal status, including companies, traders, craftsmen, farmers, liberal professions, micro-entrepreneurs, associations and foundations with economic activity. Are however excluded real estate companies, credit institutions and financing companies, as well as firms which were in difficulty as of 31 December 2019.

The loan amount cannot exceed:

- 25 % annual turnover realised in the last approved fiscal year; or
- For companies incorporated after Jan. 1, 2019 the equivalent of 2 years of the total of salaries.

Eligible companies shall benefit from the following conditions:

- No loan repayment the 1st year;
- Amortization over a maximum period of 5 years from the expiry of the first period;
- State guarantee ranging from 70 to 90% (depending on the size of the company, number of employees and turnover).

Solidarity fund for small-businesses

France has implemented a State solidarity fund dedicated to the direct financial support micro-enterprises.

Companies meeting the following requirements may benefit from financial aid[7]:

- Their activity started before 1 February 2020; and
- They are not in liquidation as of 1 March 2020; and
- They have, together with the companies they control (within the meaning of Article L233-3 of the French Commercial Code), less than 10 employees; and
- Their annual turnover is less than 1 million euros or, for companies that have not yet completed their first financial year, (average monthly turnover lower than 83,333 euros); and
- They are not controlled by another commercial company within the meaning of Article L233 of the French Commercial Code.

Eligible companies can benefit from the solidarity fund if[8] :

[7] *Art.1, décret n° 2020-371 du 30.03.2020, modified by décret n°2020-433 du 16.04.2020*
[8] *Art.2, décret n° 2020-371 dated 30.03.2020, modified by décret 2020-433 of 16.04.2020.*

- they are subject to an administrative closedown of their activity (mainly, business receiving public such as hotels, restaurants, etc.); or
- they have suffered a loss of turnover of at least 50% in March or April 2020 compared to (i) the turnover of March or April 2019, or (ii) the monthly average turnover of 2019[9].

The aid granted to the company shall be the following:

- Aid corresponding to the loss of turnover compared to the reference turnover but capped to €1500;
- An additional aid may be granted in the event the company (i) employs at least one employee, (ii) has been refused a bank loan and (iii) cannot face its debts due within the upcoming 30 days. In this event an additional amount comprised between €2000 and €5000 may be granted, depending on the amount of the turnover of said enterprise).[10]

CONTRACT LAW

Force majeure Art. 1198 Code Civil

A Force majeure event may, even in the absence of contractual provision, allow a party not to satisfy to its contractual commitment. A force Majeure event is characterised when (i) the event is beyond the debtor's control, (ii) the event could not reasonably have been foreseen at the time of the conclusion of the agreement and (iii) the force majeure event effects cannot be avoided by appropriate measures and prevent performance of the obligation by the debtor[11].

To date, no specific measures in relation to Coronavirus being a force majeure event have been implemented. Therefore, a case-by-case analysis is to be made to understand if, in a determined contractual relationship, the pandemic could qualify as a force majeure event for a party. Based on French case law relating to other pandemic situations, it is to be outlined that the contractual relationship should have started before the beginning of the pandemic for the latter to be considered as a force majeure Event.

Hardship – '*révision pour imprévision*'

Under French law, agreements entered into between the parties may be subject to a renegotiation if the following cumulative conditions are met[12]:

- Occurrence of an unforeseeable event,
- Performance of the agreement becomes overly onerous for one of the parties, and
- Provided no contractual clause exclude this legal mechanism.

[9] *Art. 5, décret 2020-433 of 16.04.2020.*
[10] *Art. 6, décret 2020-433 of 16.04.2020.*
[11] *Art. 1218 of the French Civil Code.*
[12] *Art. 1195 of the French Civil Code.*

No specific legal measures have been implemented on this matter and the application of the *révision pour imprévision* to a contract shall be assessed on a case by case basis.

Late payments under agreements

Companies eligible to the solidarity fund (micro-enterprises, as detailed above) or companies subject to insolvency proceedings may benefit from the following protective measures if they face financial difficulties[13]:

- Electricity, gas and water suppliers will not be able to cancel, reduce or suspend their supply due to default or delayed payment;[14]
- upon request, extensions of the due date for payments due to such suppliers between 12 March and the end of the state of health emergency with implementation of payment instalments over at least 6 months and without penalties.[15]
- Landlords renting-out commercial and professional premises to such eligible companies are prohibited to (i) apply penalties or interest for late payment, or (ii) terminate the rental agreement in the event of a late payment of rent or rental charges due between March 12 and the last day of a period of two months from the end of the state of health emergency.

LABOUR LAW

Generalisation of teleworking (home office)

France had recently modified its legislation relating to teleworking so to make it easier to implement for the employers[16]. Since the epidemic went in phase 3, home office became compulsory for work where implementation thereof was possible.

In the event of an epidemic, French labour law notably permits the implementation of teleworking without consent of the employee and without any particular formalism.[17]

Work-stoppage

Parents of children under 16 or children with disabilities and whose schools or special establishments have been closed can benefit from work-stoppage measures upon request to their employer.

Partial activity (partial unemployment):

Recourse to partial unemployment (partial activity) at the initiative of employers of the private sector has been facilitated.

- The amount of compensation paid by an employer to employee under partial activity regime corresponds to 70% of the usual gross salary (i.e. 84% of the net salary) with a minimum of €8.03 gross/hour. The State coverage of this allowance has been increased so as to cover this amount in full, up to a limit of 4.5 times the hourly rate of the minimum wage (gross monthly salary of €6,927.00).

[13] *Art. 1, ordonnance n°2020-316 of 25.03.2020.*
[14] *Art. 2, ordonnance n°2020-316 of 25.03.2020.*
[15] *Art. 3, ordonnance n°2020-316 of 25.03.2020.*
[16] *Ordonnance Nr 2017-1387 from 22-9-2017 and Law 2018-217 from 29-3-2018.*
[17] *Art. L. 1222-11 of the French Labour law code (Code du travail).*

- The request for authorisation for partial activity of all or part of a company's workforce can now be made within 30 days **after** the employees have been placed in partial activity;
- Applications for authorisation for partial activity may be made by any means giving a definite date of receipt;
- The time limit for implicit acceptance of a request for partial activity authorisation has been extended from 15 days to 2 days until 31 December 2020.
- Measures apply also to employees of foreign companies without a permanent establishment in France.[18]

Mandatory Partial activity for health reasons

Employees of the private sector listed below are automatically placed on partial activity for health reasons (see above) from 1 May onwards[19], without the need of a decision of the Employer:

- The employee is a vulnerable or "at risk" person for whom the health instructions recommend that an isolation measure be observed;
- The employee is a person living with a vulnerable person;
- The employee is a parent of a child under 16 years of age whose care facility or school is closed or a parent of a child with a disability who is being cared for in a closed facility.

PRIVACY

Since the beginning of the closedown in France, the authorities have rendered public a website that generates personal travel attestation. Despite the fact that they declare that no data relating to these authorizations is being collected, some were reluctant to use this internet generator for privacy purposes.

French parliament is about to adopt a new law to extend the state of health emergency until July 10, 2020. Article 6 of this new law provides for the possibility to collect personal data referring to the state of health of a Covid-19 infected individual and of other individuals which have been in contact with such person. It is to be outlined (i) that those personal data may be processed without the consent of the concerned individuals and (ii) that the transmission of these data to the authorities are mandatory for physician and practitioners.

To the contrary of what was anticipated by French media, the draft law clearly states that these Health-related personal data may not be collected for the purpose of the setting-up of a mobile app allowing users to know if they have been in contact with a Covid-19 infected person.

CORPORATE LAW

Approval of annual accounts

In principle, companies have a period of six months from the end of the financial year to approve their yearly accounts. Article 3 of Order no. 2020-318 of 25 March 2020 provides for a 3 month extension of this period.

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[18] *Art. 9, ordonnance n° 2020-346 of 27.03.2020.*
[19] *Art. 20, rectificative finance law n° 2020-473 of 25.04.2020.*

Thus, companies that normally have to approve their financial statements before 30 June 2020 (companies whose financial year ends on 31 December 2019) will have an additional period of 3 months to do so, i.e. until 30 September 2020.

Filings of accounts with the registry of the Commercial Court must normally be made within one month of the meeting that approved them. In the context of Covid 19, the maximum deadline will be 30 October 2020 (31 November in the case of electronic filing).

In the Covid Context, temporary measures were adopted to facilitate the holding of corporate bodies' meetings through electronical means, among which the (i) removal of the risk of nullity of shareholders' meetings for failure to comply with the postal notice procedures for listed companies and (ii) generalization, notwithstanding any stipulation to the contrary in the articles of association of the company concerned, of the possibility of holding shareholders' meetings by conference call visoconference, etc.

LITIGATION

Extension of procedural time limits

Legal time limits which apply to a number of actions (filings, court submissions, limitation periods, etc.) have been extended:

- This extension applies to time limits which have expired or expire between 12 March 2020 and the expiry of a one-month period following the last day of the state of public health emergency, i.e. between 12 March 2020 and 10 August 2020 in the event of an extension of the state of emergency until 10 July.[20]
- The extension is equal to the period that normally applies to the relevant action, and cannot exceed 2 months.[21]
- The extension starts to run upon expiry of a period of one month following last day of the state of public health emergency (10 July 2020 if it is extended)

TAX LAW

Extension of the deadline to declare corporate incomes for corporate income tax (CIT) purpose:

For the fiscal years ended on 31 December 2019, the deadline for declaring the yearly corporate income (filing of tax return) has been extended to 30 June 2020 instead of 5 May as usual.

This measure concerns CIT but also other professional income subject to personal income tax (BIC, BNC, BA)

This deadline also applies to the filing of tax credit forms.

Deferral of payments of direct taxes:

The French tax authorities have generalised the possibility to defer the payments of corporate income tax (*impôt sur les sociétés – IS*), corporate property tax (*Contribution Foncière des Entreprises - CFE*), tax on business added value (*Contribution sur la Valeur Ajoutée des Entreprises - CVAE*) without penalty or late payment interest

In cases where a payment thereof has already occurred, it is also possible to request a refund.

[20] *Ordonnance n° 2020-306 of 25.03.2020.*

[21] *Article 2, ordonnance n° 2020-306 of 25.03.2020.*

In some very specific cases there may also be the possibility, upon proof of a severe decrease in turnover and based on cash position and current liabilities of the concerned taxpayer, of requesting a rebate of the same direct tax items.

Extension of the deadline to declare personal Income tax (*Impôt sur le revenu des personnes physiques – IRPP*) and real estate-wealth tax (*Impôt sur la fortune immobilière – IFI*):

The deadline to submit the tax return for 2019 is extended from May 4, 8 or 11 to June 4, 8 or 11 (depending on the place of residence).

Tax incentive in relation to commercial rents

Landlords may waive their right to receive rent income from their corporate tenants. The loss incurred shall be deductible from their taxable incomes, without the need to prove the existence of a commercial interest to such waiver.[22]

FOREIGN INVESTMENTS

Foreign investment in critical technological sectors

Foreign investments in various French sectors, notably the critical technological sectors (i.e. artificial intelligence, semiconductor, robotics, etc.) are subject to a State control. Currently, investments in such companies require a prior authorisation when they result in a foreign entity holding 25% or more of the share capital of the entity concerned.

The French finance minister Mr. Bruno Lemaire has recently announced plans to reinforce sovereign control over foreign investments in such companies by a temporary reduction of the prior authorisation threshold to 10%.[23]

According to the announcement, this reduction shall apply to public listed companies only, shall not concern European investors and shall end on 31 December 2020.

A draft law is announced in the coming days.

On top of it, biotechnologies have now been added to the current list of critical technological sectors.[24]

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[22] *Art. 3, LOI n° 2020-473 du 25 avril 2020 de finances rectificative pour 2020.*

[23] https://www.tresor.economie.gouv.fr/Articles/2020/04/30/covid-19-adaptation-du-controle-des-investissements-etrangers-en-france-ief-pendant-la-crise-sanitaire.

[24] *Arrêté ministériel du 27 avril 2020.*

GERMANY

SAGASSER TAX & LAW

INTRODUCTION

The specificity of Germany is based in its federal, decentralised system. Every local state has to decide upon the state of emergency. With the help of the public bank KfW, extensive loan programs and allowances have been rolled out in accordance with the EU state aid provisions. Usually the existing civil and civil procedure law was sufficiently flexible to respond to the COVID 19 Crisis. Yet, temporary stipulations allow the suspension of contractual continued obligations, mostly until June 30, 2020. Even if the German law has already provided with sufficient possibilities to use video and audio conferencing, the new legal provisions for shareholder meetings allow a more extensive use of virtual meetings and electronic votes. To maintain the cash flow within the companies, tax delays for filings and regular instalments have now been temporarily extended. In the end, EU measures are also reflected in the accelerated governmental process of refraining non-EU investments in German companies especially from the health care sector.

EMERGENCY MEASURES

State of emergency

The constitution of the Federal Republic of Germany provides with the possibility of emergency measures as ultima ratio on federal level[25]. In first line, the constitution gives the local states (Länder) the power and responsibility for danger control and emergency response[26]. Thus, no "state of emergency" has been declared on federal level but on state level, as it is the case for the much affected state of Bavaria to organise all public forces under the direction of the supreme emergency control authority[27].

The Law on the Prevention of Infection from July 20th, 2000 and recently updated due to the corona crisis[28] applies to most of the measures establishing the necessary participation and cooperation of federal, state and local authorities in order to detect infections at an early stage and prevent their spread amongst humans. The fundamental rights of freedom of the person, freedom of assembly, freedom of movement and the inviolability of the home can be restricted by the measures based on this Law.

Beyond the emergency measures concerning lockdown and restrictions on free movement, Germany has implemented different measures to support the economy in this crisis, see below.

Financial support for companies experiencing financial difficulties

[25] *Art. 35 (3) Grundgesetz (German Constitution).*

[26] *Art. 70 Grundgesetz (German Constitution).*

[27] *Announcement of the Bavarian State Ministry of Interior, Sports and Integration (Bekanntmachung des Bayerischen Staatsministeriums des Innern, für Sport und Integration) dated from March 16th, 2020, Az. D4-2257-3-35.*

[28] *Infektionsschutzgesetz dated from July 20th, 2000 (BGBl. I S. 1045), amended by Law dated from March 27, 2020 BGBl. I 587 (Nr. 14).*

The financial support offers different cash injections ensuring the capital basis for companies depending on their size.

The **Economic Stabilisation Fund** (*Wirtschaftsstabilisierungsfonds*[29]) is aimed at companies of the real economy (excepted is the financial sector) whose continued existence shall be ensured since these companies have a significant impact on the economy, technological sovereignty, security of supply, critical infrastructures or the labour market. The applying companies must meet two of the following three criteria:

- More than 249 employees
- Turnover of € 50 million
- A balance sheet total of € 43 million

The Economic Stabilisation Fund provides with:

- a €400 billion guarantee framework to make it easier for companies to refinance themselves on the capital market
- Recapitalisation measures amounting to € 100 billion to strengthen the capital base and ensure the solvency of companies
- Loans of up to €100 billion to refinance the special credit programmes provided by the public law institution KfW (*Kreditanstalt für den Wiederaufbau*).

Different **KfW loan programms** help with rapid loans under favourable conditions and simplified risk assessment for all sorts of companies, except for companies which were in financial difficulties as of Dec 31st, 2019. The KfW Bank is held by the Bund (Federal State) and the Länder (the local states) and guarantees mostly 90% of the loans granted within the Kfw programme by the respective bank of the company.

For companies of all sizes, loan amounts of up to €1 billion at reduced interest rates (1.00 to 2.12% p.a.) for a five years term are available to help with liquidity for acquisitions and operating costs under the after mentioned conditions. Yet, the loan amount cannot exceed:

- 25 % of the annual turnover in 2019 or
- twice the wage costs of 2019, or
- the current financing requirements for the next 18 months for small and medium-sized enterprises and 12 months for large enterprises
- 50% of your company's total debt for loans over €25 million. .[30]

Kfw credits for medium-sized enterprises with more than 10 employees under the rapid loan programme have an interest rate of 3% with a 10-years term and even 100% guarantee by KfW. The medium-sized enterprise must have been active on the market since at least Jan 1st 2019 and have reported a profit in 2019 or in the average over the last three years. The maximum loan amount is limited to:

- per company up to 25% of the annual turnover in 2019,

[29] *Created by an amendment to Law on Special Financial Market Stabilisation Funds (Finanzmarktstabilisierungsfondsgesetz) BGBl Jg 2020, Teil 1 Nr. 14, S. 543. The Law on Special Financial Market Stabilisation Funds has been created in 2008 during the "Lehman" banking crisis and now reused for the implementation of the Economic Stabilisation Fund.*

[30] *https://www.bmwi.de/Redaktion/DE/Coronavirus/coronahilfe.html.*

- maximum € 800,000 for companies with more than 50 employees,
- maximum € 500,000 for companies with up to 50 employee.[31]

Allowances for micro-enterprises with 10 or fewer employees and self-employed

One-time allowance for up to three months, with a possible two additional months:

- up to five employees (full-time equivalent): up to € 9,000.
- up to ten employees (full-time equivalent): up to € 15,000.[32]

CONTRACT LAW

The contract law has been modified to ease the consequences of the COVID 19 pandemic in case of default of one party during a certain period (until June 30th, 2020) as regards contracts with continuing obligations.

Right to refuse performance ("*Leistungsverweigerungsrecht*") for contracts with continuing obligations *except* rental, credit, working contracts[33]:

- **Consumers** impacted by the COVID 19 pandemic shall have the right to refuse payment or any other claim resulting from a continuing consumer contract concluded before 8 March 2020. This right is excluded if the exercise of the right would jeopardise the economic basis of the business of the contractual counterparty.

- **Micro companies**[34] shall have the right to refuse to provide services resulting from a contract with continuing obligations concluded before 8 March 2020 if, as a result of circumstances attributable to the COVID-19 pandemic,

1. the company cannot provide the service, or

2. the company would not be able to provide the service without jeopardising the economic basis of its business. The right to refuse is excluded if the contractual counterparty or its family depends on the services for a decent standard of living or for its business.

If in both cases, no right to refuse exists the debtor shall have the right to terminate the contract.

Restrictions on the termination of rental and lease agreements[35]:

- The **landlord** may not terminate a lease of land or premises solely on the ground that the tenant fails to pay the rent in the period from 1 April 2020 to 30 June 2020 despite being due, if the failure to pay is due to the effects of the COVID 19

[31] https://finanzierungsportal.ermoeglicher.de/.
[32] https://www.bmwi.de/Redaktion/DE/Coronavirus/soloselbststaendige-freiberufler-kleine-unternehmen.html.
[33] Art. 240 § 1 EGBGB (Law of Introduction to the German Civil Code).
[34] Definition as to 2003/361/EG.
[35] Art. 240 § 2 EGBGB (Law of Introduction to the German Civil Code).

pandemic. The connection between COVID-19 pandemic and non-payment must be substantiated.

Deferrals and restrictions on the termination for consumer loan agreements[36]:

- For **consumer** loan agreements concluded before 15 March 2020, claims of the lender for loan repayment, interest or amortisations due between 1 April 2020 and 30 June 2020 shall be deferred for a period of three months from the due date if the consumer is unable to make the payment due because of the spread of the COVID 19 pandemic. This is the case if exceptional circumstances have led to a loss of revenue, which have the effect of causing him to be unable to pay the performance is unreasonable. The termination by the lender on account of late payment, a significant deterioration in the financial circumstances of the consumer or the value of a security provided for the loan is excluded in the beforementioned case until the expiry of the deferral.[37]

LABOUR LAW

Short-time work / Partial activity

Conditions for short-time work compensation have been temporarily eased from March 1st, 2020 due to the crisis[38]:

- It is sufficient if 10% (instead of the previous one third) of a company's employees are affected by the loss of working hours for a company to be able to apply for short-time work compensation.
- Social security contributions attributable to the short-time working allowance are reimbursed in a lump-sum by the Federal Employment Agency.
- Short-time working allowance can also be applied for for temporary workers.
- There is no need to build up negative working time balances before short-time working benefits are granted.

Compensation:

- Short-time work compensation amounts to 60% of the difference between the regular net income and the actual net income due to short-time work - 67% for parents. The compensation can go up to 80% (87%) for short-time work after seven months but limited to Dec 31, 2020 if the working time has been reduced by more than 50%.
- Payment is made by the responsible employment agency.

Compensation for loss of earnings due to infection or lockdown as prevention against a further spread

[36] *Art. 240 § 3 EGBGB (Law of Introduction to the German Civil Code).*

[37] *Law to mitigate the consequences of the COVID 19 pandemic in civil, insolvency and criminal proceedings of 27 March 27th, 2020 (Gesetz zur Abmilderung der Folgen der COVID-19-Pandemie im Zivil-, Insolvenz- und Strafverfahrensrecht vom 27. März 2020).*

[38] *Law on the temporary improvement of the regulations for short-time work compensation (Gesetz zur befristeten krisenbedingten Verbesserung der Regelungen für das Kurzarbeitergeld) amending art. 109 of the Social Code Vol. 3 (Drittes Buch Sozialgesetzbuch – Arbeitsförderung) and granting a temporary restricted delegated power to the executive for executing body until Dec 31st, 2021.*

If an employee has been infected, he / she is granted sick leave with a continued payment of its regular salary paid by the employer up to six weeks[39]. After six weeks the sick employee receives up to 70% of the regular gross income max 90% of the regular net income paid by the statutory health insurance[40].

The Infection Protection Act[41] grants a right of indenisation for any ban on exercising its activity, e.g. if a person is assumed to spread the virus or if public institutions such as schools or day-care centres have been closed in prevention of a further spread. Payment is made by the employer, who can submit a refund application to the competent state authority.

Home Office

Unlike other countries, the German legislator has not yet integrated any stipulations on home office into the existing labour law provisions. Thus, the employee cannot decide whether he / she wants to stay at home except if the lack of respect of security measures by the employer gives him / her a right of refusal to come to the work space. The employer determines at its reasonable discretion the content, place and time of the work performance, unless there is a contractual agreement or works council agreement. The coalition contract between the two governing parties provides with a program for facilitating home office in the future. However, no draft law exists or is at view.

PRIVACY

If personal data is collected in connection with the COVID 19 pandemic, in most cases, links are established between individuals and their state of health which is protected under the German data protection in correspondence to EU general data protection regulation[42]. Even if the processing of health data is in principle only possible on a restrictive basis, data may be collected and used in accordance with data protection regulations for various measures of protection of others and to avoid the further spread of the COVID 19, e.g. collection and processing of personal data (including health data) of employees by the employer. The principle of proportionality and the legal basis must always be observed. In that respect, also the tracking of infected persons can within the limits of necessity and proportionality be allowed for the purpose of defence against the pandemic in the event of danger to life and health.[43]. In contrast, the disclosure of personal data of demonstrably infected or suspected infected persons for the information of contact persons is only lawful if the knowledge of the identity is exceptionally necessary for the precautionary measures of the contact persons.

CORPORATE LAW

Shareholder meetings and resolutions

Limited liability company (Gesellschaft mit beschränkter Haftung – GmbH -)

- Written resolutions are now possible even without the consent of all shareholders.[44]

Stock company (*Aktiengesellschaft* – AG -) and similar[45]

[39] §§ 3, 4 EntgFG (Law on the payment of remuneration on public holidays and in the event of illness - Continued Remuneration Act).
[40] § 47 SGB V.
[41] § 56 InfSG.
[42] Article 9 of the DS-GVO (German data protection regulation).
[43] Article 6 (1) (d) of the DS-GVO (German data protection regulation).
[44] Art.2 Act Concerning Measures Under the Law of Companies, Cooperative Societies, Associations, Foundations and Commonhold Property to Combat the Effects of the COVID-19 Pandemic of 27 March 2020 (Gesetz über Maßnahmen im Gesellschafts-, Genossenschafts-, Vereins-, Stiftungs- und Wohneigentumsrecht zur Bekämpfung der Auswirkungen der COVID-19-Pandemie).

- Virtual shareholder meetings and electronic vote.

The management board of a German stock company can decide to hold a completely virtual general meeting without the physical presence of shareholders and to allow shareholders to participate and cast their vote by means of electronic communication without being authorized to do so by the by-laws or rules of procedure provided that the broadcast by means of audio and video transmission encompasses the entire general meeting and provision is made for shareholders to exercise their right to ask questions, to vote and to object the resolution by means of electronic communication (postal vote or electronic participation) and to grant a power of attorney.

- Delays
    - Shortened for fast resolutions: The shareholder meeting can be convened with a shortened period of notice (21 days instead of 30 days).
    - Extended for the annual general meeting: In the case of the AG and KGaA, the general meeting can also take place after the eight-month period within the fiscal year.
- Distribution to shareholders

The Management Board can decide, with the approval of the Supervisory Board but without a resolution of the general meeting, to pay a discount on the annual net profit to the shareholders without being authorized to do so by the by-laws.[46]

Extended delays for transformations

Due to the restrictions on the possibilities for meetings and in order to ensure that transformation measures which are too costly in most cases do not fail because the statutory eight-month period for filing the transformation with the Commercial Register cannot be observed, the period in § 17 sub-section 2 sentence 4 UmwG is extended to twelve months. It will run from the effective date of the relevant closing balance sheet.[47]

Insolvency: reduced notification obligations of managing directors or the managing board

The obligation to file an insolvency petition is suspended until 30 September 2020. This does not apply if the insolvency maturity is not due to the consequences of the spread of the SARS-CoV-2 virus (COVID-19 pandemic) or if there are no prospects of eliminating an existing insolvency.[48]

LITIGATION

General court procedure

[45] *Kommanditgesellschaft auf Aktien – KGaA -, societas europaea - SE - and Versicherungsverein auf Gegenseitigkeit – VvaG.*

[46] *Art.1 Act Concerning Measures Under the Law of Companies, Cooperative Societies, Associations, Foundations and Commonhold Property to Combat the Effects of the COVID-19 Pandemic of 27 March 2020 (Gesetz über Maßnahmen im Gesellschafts-, Genossenschafts-, Vereins-, Stiftungs- und Wohneigentumsrecht zur Bekämpfung der Auswirkungen der COVID-19-Pandemie).*

[47] *Law on measures in company, cooperative, association, foundation and home ownership law to combat the effects of the COVID 19 pandemic.*

[48] *Law on the temporary suspension of the obligation to file for insolvency and to limit the liability of organs in case of insolvency caused by the COVID 19 pandemic (Gesetz zur vorübergehenden Aussetzung der Insolvenzantragspflicht und zur Begrenzung der Organhaftung bei einer durch die COVID-19-Pandemie bedingten Insolvenz (COVID-19-Insolvenzaussetzungsgesetz – COVInsAG)).*

The public cannot be excluded because of COVID 19 since security measures as milder means to avoid dangers for health and life of other persons can be applied (e.g. social distancing, disinfection). The hearing can also be adjourned or the procedure suspended.

Video hearings are admissible in particular for civil court procedures[49] if the courtrooms and the participants have the necessary technological equipment.

Civil Court

Suspension or adjournment

Prerequisites for rescheduling an appointment for a court hearing require considerable reasons. If such grounds exist, the court may, of its own motion or on application by a party, cancel or postpone the date. Considerable reasons can for instance be that the party or their attorney cannot be present due to illness or lockdown. The same reasons can avoid a judgment by default if the attorney of record in the legal proceedings or the party does not appear because of illness or lockdown.

Delays

Each party can apply for an extension for delays concerning the main hearing on the basis of existing civil procedure stipulations[50] if there are substantial grounds. The duration of the extension is at the discretion of the court; according to observations from practice, in the current situation the courts grant generous extensions of time limits.

Restitutio in integrum (*Wiedereinsetzung*) will even under the present circumstances normally not be considered. According to the consistent case law of the Federal Court of Justice, an attorney must take general precautions to ensure that the necessary steps are taken to meet deadlines even if they are unexpectedly cancelled.

Criminal Court

Delays have up to now only be extended by law in criminal court procedures by the suspension of periods of interruption due to interventions to prevent infections[51].

Regardless of the duration of the main hearing, the running of the periods of interruption[52] is suspended for as long as the main hearing cannot be conducted on account of interventions to prevent the multiplication of infections caused by the SARS-CoV2 virus (COVID-19 pandemic), but for no longer than two months; these periods expire no earlier than 10 days after the suspension has ended. The court determines the commencement and end date of the suspension in an incontestable decision[53]. This applies accordingly to the period for the pronouncement of judgment.

TAX LAW

Tax filings and procedure:

- Deferral of tax liabilities until the end of 2020: income and corporate income tax and value added tax.
- Adjustment of the instalments for income and corporation tax.

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[49] *Section 128a (1) and (2) of the German Code of Civil Procedure (ZPO).*
[50] *§ 224 (2) German Code of Civil Procedure (ZPO).*
[51] *Art. 3 Law to mitigate the consequences of the COVID 19 pandemic in civil, insolvency and criminal proceedings of 27 March 27th, 2020 (Gesetz zur Abmilderung der Folgen der COVID-19-Pandemie im Zivil-, Insolvenz- und Strafverfahrensrecht vom 27. März 2020).*
[52] *§ 229 (1) and (2) of the Code of Criminal Procedure (Strafprozeßordnung).*
[53] *Section 10 Introductory Act to the Code of Criminal Procedure (EGStPO).*

- Adjustment of the tax basis of trade tax prepayments, which leads also to adjusted instalments for trade tax.
- Waiver of enforcement measures and late payment surcharges on income and corporation tax and VAT.

Amendments to VAT

The VAT rate will be reduced from 19 % to 7 % for restaurant and catering services provided after 30 June 2020 and before 1 July 2021, with the exception of the supply of beverages.

Legal entities under public law are for a longer transitional period excluded from the definition of "entrepreneur" subject to VAT, which means that local municipal entities can act without being subject to VAT for COVID 19 pandemic measures[54].

Further tax-exempt income

The short-time work compensation (see above, section Labour Law) is tax-exempt.

Delays for Transformation Tax

The tax retrospective period of eight months for fusions and contributions[55] is temporarily extended to twelve months (see section Transformation Law before).

FOREIGN INVESTMENTS

Foreign investments in sensitive sectors

The European Commission has published guidelines on March 25th, 2020 on the review of foreign direct investment (C (2020) 1981, OJ 2020, C 99 I, 1), which aim to protect critical European assets and technologies. In Germany exists already a screening mechanism on the basis of the Foreign Trade and Payments Act[56], detailed by the Foreign Trade and Payments Ordinance (AWV). The acquisition of a domestic company or a direct or indirect stake in a domestic company cannot effectively take place without the required authorisation of the Federal Ministry for Economic Affairs and Energy if, as a result of the acquisition, the public order or security of the Federal Republic of Germany is endangered.

Soon, the German government is making it more difficult for non-EU investors to take over companies from the healthcare sector. An amendment to the Foreign Trade and Payments Ordinance (AWV) drawn up by the Federal Ministry of Economics and Technology is intended to include the sector in the list of companies with particular security relevance.

For these companies, the acquisition by companies from non-EU investors is subject to reporting requirements if the planned stake in the company exceeds ten per cent. The AWV amendment is to be passed by the Federal Cabinet on May 13th, 2020. The originally planned expansion of the list of specially protected industries (see EU screening regulation) to include areas such as artificial intelligence, robotics, biotechnology or semiconductors is to be postponed until September.

[54] The existing transitional provision to § 2b UStG (German VAT Law) in § 27 paragraph 22 UStG (German VAT Law) will be extended until 31 December 2022 due to more urgent work by legal entities under public law, especially municipalities, to deal with the COVID 19 pandemic.

[55] § 9 sentence 3 and § 20 sub-section 6 sentences 1 and 3 UmwStG (German Transformation Tax Act).

[56] Art. 4, 5, 13, 15 Foreign Trade and Payments Act (Außenwirtschaftsgesetz).

Economic / financial support

Foreign companies with subsidiaries in Germany can benefit from the same Kfw loan programs as German companies under the following conditions:

- No loans to companies from tax havens (EU black list)
- Loans may only be used for investments or working capital in Germany in order to support the locations and employees in overcoming the crisis.
- All borrowers must prove that they use the funds in accordance with the regulations.
- KfW can verify the correctness of the information by means of on-site inspections.
- In its lending operations KfW observes all internationally agreed transparency criteria, especially in the tax area.[57]

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[57] https://www.bundesfinanzministerium.de/Content/DE/FAQ/2020-03-13-Corona-FAQ.html.

GREECE

TSIBANOULIS & PARTNERS

GREEK MEASURES FOR COVID-19 until May,10 2020

The most important measures approved are the following:

EMERGENCY MEASURES

- Temporary prohibition of business operation on shops, restaurants, theatres, cinema, holiday resorts, hotels, kindergartens, etc. Small shops have restart on May 11. Restaurants are estimated to restart on June 1st. Holiday resorts are estimated on July 1st.
- Since 10 March, the operation of all schools, universities, daycare centers and all other educational establishments was suspended nationwide. From May 11 some classes of the schools will restart.
- Temporary ban on educational excursions and on the movement and visits of students and teachers.
- Restrictions to passenger flights from certain countries apply.
- Ban of all liturgies and religious services from 16.3.2020 till 17.5.2020, in all places of religious worship (temples, chapels, mosques, etc., of any kind and of any legal, canonical and generally religious status) of any doctrine and religion, whatever their size and capacity, throughout the Greek territory (except for funerals and individual prayers).
- Temporarily restricting the movement of citizens to counter the risk of COVID-19 spread until May 4. There were certain exceptions, as citizens could only circulate outside their homes for the following eight reasons (a) Going to and from work during work hours; (b) Going to a pharmacy or a scheduled medical appointment; (c) Going to a store for basic goods, when there is no home delivery; (d) Going to the bank if an online transaction is not possible; (e) Going to help out people in need; (f) Going to an event such as a wedding, baptism, funeral or such (restrictions apply); (g) Going out to exercise or walk a pet, and only singly or by two. In the latter case, keeping a distance of 1.5 meters between the walkers/runners is required; (h) moving back once to main residence.
- Measures announced by the Hellenic Bank Association to restrict movement by members of the public due to the coronavirus (Withdrawals of up to €400 only at ATMs, deposits of cash up to €1,000 only at ATMs, Payments of bills such as public services, phone, pay-TV, insurance, etc. via internet/mobile banking, ATM or APS, Bank account updates (latest transactions and balance) via internet/mobile banking or ATM).
- Retailers of personal protective equipment or personal hygiene products may sell to the consumer a maximum of three (3) pieces per customer, regarding products of personal protection and personal hygiene, e.g. antiseptics, masks, disinfectants, for the next six (6) months provided there is still a risk of COVID-19 spreading.

- Private law contracts of doctors specializing in infectious diseases, with hospitals where they serve to obtain specialty, are automatically extended for up to four (4) months, due to the need to address the spread of COVID-19.
- The Secretary-General of Health Services may move, for a period of one (1) month, with the option of extending it up to three (3) additional months, auxiliary medical, auxiliary nursing and all auxiliary support staff to other hospitals or health centers, to respond to emergencies regarding the spread of COVID-19.
- Requisition of vessels for the transfer of persons infected with COVID 19.
- Compulsory submission to clinical and laboratory medical examination, health surveillance, vaccination, medication and hospitalization of people who are reasonably suspected of transmitting the disease directly or indirectly.
- Imposition of sanitation preventive controls and clinical or laboratory controls in all entry points of the country via air, sea, rail or road.
- Temporary ban on entry and exit from Greece has been imposed to individuals, and groups from affected areas abroad. However, it is not possible to prohibit Greek citizens to enter the Greek territory.

CONTRACT LAW

- The lessees for the establishment of a business, for which special and extraordinary suspension or temporary prohibition measures have been taken, were exempted from the obligation to pay 40% of the total rent for the months of March, April and May 2020. This also applies to main residence leases where the lessee is an employee, whose employment contract has been mandatorily suspended.
- The lessees for the establishment of a business “affected”, were exempted from the obligation to pay 40% of the total rent for the months of April and May 2020
- Banks will facilitate the payment of loan installments regarding affected households and businesses. The Hellenic Bank Association had decided the suspension of the repayment of loan principal regarding business loans, until at least 30.9.2020, provided that such loans were performing on 31.12.2019. The suspension will be provided upon the borrower’s request. Interest continues to be payable during such period.
- Payment of the monthly April, May and June interest rates of business loans of the affected businesses by the state. If a company makes redundancies, it will not receive this aid.
- All banking institutions will suspend the payment of debts of the persons entitled to the 800€ financial state aid and of the businesses affected. Respectively, the Hellenic Bank Association had decided the suspension of loan repayment for borrowers individuals who will receive the 800€ financial state aid. Such suspension will last three months and will be communicated by the banks to each borrower. Also, the banks are adjusting their ways of communication with the borrowers in today's extreme and sensitive conditions.
- 75 days extension of the deadline for payment of (postdated) checks, under certain preconditions.
- Mechanism for providing guaranteed working capital to affected businesses, up to a specific amount. These businesses will be able to get loans from banks, guaranteed by the State.

- Suspension of time limits for concrete actions concerning extrajudicial settlement of debts.
- Introduction of the possibility of granting a credit note of equal value, valid for (18) months as of the date of issuance instead of refund by Greek tourism undertakings in case of termination of contracts between tourism undertakings or between tourism undertakings and customers the period from February 25, 2020 until October 30, 2020 due to Covid 19 situation.

LABOUR LAW

- Employees in businesses where business activities are prohibited by a public authority order, are not required to provide their work and employers do not have to pay salaries. The employment contracts are suspended for as long as the public authority's order prohibits the business.
- Employers belonging to specific categories, defined by the Ministry of Finance, and who have been severely impacted by the crisis, may suspend the employment contracts of all or part of their employees, working on 21/3/2020 up to May 30. The employers making use of the above arrangements are expressly prohibited from terminating the employment contracts of their employees and, if effected, the dismissal is null and void.
- Employees whose employment contracts have been suspended, either following a lockdown by order of the authorities or due to a suspension of their employment by decision of the employer, in accordance with the paragraph above, are entitled to a special state benefit of 800€ + 533€, which will be paid in early April and May and covers a period of 45 and 30 calendar days respectively. The state benefit of 800€ is also due to employees whose employment contracts have been terminated during the period from 1 to 20 March 2020, either by the employer or by resignation.
- Employers whose businesses have been temporarily locked down by order of the authorities are prohibited from making any dismissals during the lockdown period. Any such dismissals are null and void. The effective date hereof is 18 March 2020.
- Employers who are severely impacted by the crisis or have been on a temporary lockdown by order of the authorities may provisionally transfer personnel to other companies of the same group.
- Employment contracts of workers with fixed-term employment, which expire after the prohibition of the business activities, shall be suspended in accordance with the paragraph above. At the end of the suspension period, the contract of employment shall continue for the agreed time remaining.
- Employers may impose a system of remote working (until May 31, 2020).
- Employees of businesses active in the areas of production, transport and supply of food, fuel, medicines and paramedical products were exempted from the prohibition of work on Sundays and public holidays. This measure will remain in force during the crisis and for a maximum of 6 months.
- All businesses may operate with security personnel, observing the following conditions: (a) the minimum working time limit per employee shall be two (2) weeks, (b) the organizational structure shall take place on a weekly basis, whereas at least 50% of employees must participate and (c) the business shall maintain the same number of employees.

- Special purpose paid leave (paid by both the employer and the Greek state) granted to parents with children up to 15 years old, following the temporary suspension of the operation of all educational institutions;
- The security contributions and installments of affected businesses or employers regarding February, March and April 2020 for the period leading up to the closure of businesses or the period of the suspension of employment contracts, payable by 31/3/2020, 30/4/2020 and 31/5/2020 respectively, shall be paid by 30/9/2020, by 31/10/2020 and by 30/11/2020 respectively.
- Payment of social security contributions and instalments regarding February and March 2020 is suspended for self-employed professionals. The contributions shall be paid in four (4) equal monthly installments, with the deadline for the payment of the first installment on 30/9/2020.
- The Easter Gift will be paid in full by June 30,2020. If the employment contracts are suspended, the Easter Gift corresponding to the suspension period shall be paid by the State.

PRIVACY

- Establishment of a national registry re. patients and persons infected with COVID 19.
- All medical prescriptions may be obtained through an electronic portal.

CORPORATE LAW

- Possibility of General Assembly's and Board of Directors' meeting via teleconference, regardless the lack of any respective provisions at the Articles of Association of a company.
- Extension of the time period to publish the annual financial reports of the listed in the ASE companies until June, 30, 2020

LITIGATION

- The operation of all courts (Administrative, Civil, Criminal and Military) was suspended (until May 5, 2020 for the Administrative Courts, until June 1st for the Civil Courts and until July 1st for the Criminal Courts) as follows : (a) For the period from 6 May 2020 onwards the court sessions before the Administrative Courts and the Counsil of State take place without the participation of the parties; (b) The legal and judicial deadlines for the procedural acts and other actions before the court authorities and services, as well as the statute of limitation for the relevant claims and the enforcement proceedings and the auction procedures are suspended. Exceptions have been established regarding the measures of temporary judicial protection, the publication of judicial decisions and for some kind of trials before the criminal courts.
- The operation of real estate cadastral offices and land registers was suspended (until April 28).

TAX LAW

- Extension of the deadline for payment of assessed debts and for scheduled payments in the context of a debt settlement scheme, due from 11.03.2020 until

30.04.2020, (without interest or surcharges) for the affected enterprises until 31.08.2020 under the following conditions (a) affected enterprises are those with active primary Business Activity Codes included in the relevant list published on 20.03.2020, (b) the postponement shall not apply in case the employer terminates the employment contract, as well as, by the time the postponement period is over, businesses do not preserve the same number of jobs.

- VAT payments which have become due during the period from 11.03.2020 until 30.04.2020, are postponed for the affected enterprises until 31.08.2020 (under the same conditions as above).
- To date, no extension to the submission deadlines of periodical tax returns due by the end of March 2020 has been provided (e.g. VAT, VIES and withholding tax returns must be submitted within the applicable deadlines).
- Filing deadline of annual list of customers-suppliers for 2019 has been extended until 30 June 2020 and correction of respective suppliers' deviations until 31 July 2020.
- Submission of lease agreements notifications through taxisnet for lease contracts or amendments for the period from 01.02.2020 to 30.04.2020 as well as declarations of short-term accommodation for commencement of accommodation or cancellations thereof for the period from 01.02.2020 to 31.05.2020 is extended until 30 June 2020.
- Reduction of the VAT rate from 24% to 6% on certain products necessary for the protection from the coronavirus, until the 31st of December 2020**.**
- Acceleration of tax refunds of amounts not exceeding €30,000.
- Postponement of the revision of the real estate property objective values until next year and the computation of 2020 annual property tax based on it.
- 25% reduction for payment of tax debts on time, by permanent or temporary, full-time or part-time employment.
- For persons who received the 800€ financial support, tax liabilities may be suspended for 4 months, with a 25% discount if paid in due time.
- Suspension of time limits re. Tax Procedural Code (i.e.notification of tax fine, filing of appeal re. tax penalties etc), until April 30,
- Donations by any individual or entity for the sole purpose of purchasing hospital equipment, personal protective equipment and medicines are approved without delay by a statement of acceptance of the Minister of Health. VAT exception for donated items.
- Establishment of a special purpose account for donations re. COVID 19 (for healthcare equipment, etc.)
- Suspension of the operation of the "Central Ultimate Beneficial Owners Register" information system.

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INDIA

TITUS & CO., ADVOCATES

INTRODUCTION

As businesses worldwide navigate the challenges brought on by the rapid spread of the pandemic, it is essential to be rapidly prepared with solutions to address challenges, risks and issues as soon as and in some cases even prior to they arise, to ensure quick recovery. While all businesses are unique, we believe that the pandemic has thrown up many legal issues, challenges and lessons that have been learnt early and which can be utilised to assist other businesses. Titus & Co. provides up-to-date assessments and knowledge on issues that affect businesses and guides businesses in prompt and decisive responses designed to save lives, restore trust, save costs and continue operations.

EMERGENCY MEASURES

The Government of India ("**GOI**") is taking a number of measures to contain the spread of COVID-19 in the country. The World Health Organisation (WHO) on March 11, 2020 declared COVID-19 as pandemic and on the same day GOI immediately issued revised travel guidelines inter alia suspending all existing visas till April 15, 2020 and thereafter on March 20, 2020 closed its airport for all international flights to India. On March 24, 2020 the GOI issued Orders prescribing a lockdown for containment of COVID-19 referring to it as an "*epidemic*" in the country. The Government of India has also invoked powers under the Epidemic Diseases Act, 1897 to enhance preparedness and containment of the virus and all the States and Union Territories of India have been advised to invoke the provisions under Section 2 of the Epidemic Disease Act 1897, which includes special measures to be taken by the Centre to "*prescribe regulations as to dangerous epidemic disease.*" The Supreme Court of India has in a recent order in the wake of the spread of the COVID-19 has recognized that if prompt measures are not taken then COVID-19 could reach the epidemic level.

To deal with the ever changing pandemic situation in India, the Central Government/State Governments are issuing notifications, guidelines, orders, regulations and advisories on a regular basis to ensure business continuity in the country as numerous legal issues have arisen as a consequence of the pandemic and also introduced various subsidies and other reliefs to help businesses cope with the crisis. On 14 April, Prime minister Narendra Modi extended the nationwide lockdown until 3 May, with a conditional relaxation after 20 April for the regions where the spread had been contained. On 1 May, the GOI extended the nationwide lockdown further by two weeks until 17 May. The Government has divided the entire nation into three zones—green, red and orange—with relaxations applied accordingly.

CONTRACT LAW

The law relating to "*Force Majeure*" is embodied under Section 32 ("*Enforcement of contracts contingent on an event happening*") and Section 56 (*An agreement to do an act impossible in itself is void*) of the Indian Contract Act, 1872 (**"ICA"**). It is also embodied in Section 108(e) of the Transfer of Property Act, 1882 (**"TPA"**) with regard to Leases. Section

32 of the ICA is applicable where express or implied clauses form a part of a contract. In a situation where a "*Force Majeure*" event occurs de hors the contract, it is dealt with by a rule of positive law under Section 56 of the ICA. Further, with regard to leases under the TPA, usually "*Force Majeure*" is limited to violent natural calamities. The effect of "Force Majeure" is different in property and non - property transactions. However, where a contract has a specific "*Force Majeure*" clause only the contract will apply.

The Government of India also believes that the spread of COVID-19 falls within the definition of "*Acts of God*" like a "*natural calamity*". It has recently clarified that for the purposes of considering disruption of the supply chains due to spread of COVID-19, in China and other countries, COVID-19 may be considered as a "*natural calamity*" and Force Majeure Clauses may accordingly be invoked. In addition, Ministry of Finance Vide Order No. OM No. 18/42020-PPD dated March 19, 2020 inter alia stated that "*A Force Majeure (FM) means an extraordinary events or circumstances beyond human control such as an event described as an Act of God (like natural calamity)*" and has clarified that the spread of corona virus should be considered as a case of natural calamity and Force Majeure may be invoked. In continuation of the above Government of India clarification the Ministry of Shipping, Government of India, vide its Order No. PD-1313312020-PPP/e-339106 dated March 20, 2020 and Letter dated March 24, 2020 intimated that the major ports in the Country that the COVID-19 pandemic can be considered as a "*natural calamity*" which would entitle the invocation of Force Majeure Clauses under various contracts. The Ministry of New and Renewable Energy (MNRE) through a Press Release on April 21, 2020 stated that all Renewable Energy implementing agencies of MNRE will treat the lockdown due to COVID-19 as "force majeure".

Recently the Oil field service provider Halliburton Offshore Services received temporary relief from the Delhi High Court in a Force Majeure case against mining and natural resource giant Vedanta The High Court of Delhi on April 20, 2020 restrained Vedanta from invoking eight bank guarantees of Halliburton The High Court held that "*19. The countrywide lockdown, which came into place on 24th March, 2020 was, in my opinion, prima facie in the nature of force majeure. Such a lockdown is unprecedented, and was incapable of having been predicted*"

LABOUR LAW

As the lockdown announced by the GOI has raised serious operational issues including with regard to matters of employment. Many businesses are faced with the prospect of the need to reduce the work force and/or reduce wages and this raises issues of compliance with local employment laws while balancing those requirements with recent GOI advisories which expect public and private establishments to not terminate employees or reduce their wages.

The Ministry of Labour and Employment on March 20, 2020 issued an Advisory where all employers of Public/Private establishments were advised and/or appealed, on humanitarian grounds, to not terminate their employees, particularly casual or contractual workers from jobs or reduce their wages. Further, if any worker was on leave, he was to be deemed to be on duty without any consequential deduction in wages for this period. The Advisory also laid down that if the place of employment is made non-operational due to the lockdown, the employees of such unit were to be deemed to be on duty. Following the Advisory of the Ministry, several State Governments also released notifications/advisories/ circulars/ orders directing how to deal with employees/workers in the times of pandemic. The enforceability of such advisories/appeals and the consequences of failure to abide by such advisories need to be assessed.

Further, the Order of March 29, 2020 issued by the Ministry of Home Affairs, GOI in terms of the powers under the Disaster Management Act, 2005 makes it clear that deduction of wages during the lockdown will be construed as an offence under the Act. It also states that this is applicable only to those establishments that are closed during the lockdown and industries exempted from the lockdown will not be covered under the Order. Since the MHA Order does not clearly define the term a worker, thus other statutes needs to be referred to arrive at the correct interpretation of the MHA Order.

The Government of Telangana vide its Order stated that all Government as well as private establishments shall make payments of wages/salaries fully to their workers/employees including those working under contract and outsourcing basis during the lockdown period and any violation will be viewed seriously and will invite penal action under The Epidemics Disease Act 1897.

The Government of Haryana also issued an Advisory to the employers/owners of Industries, Factories, Shop and Commercial Establishments etc. to not terminate their employees/workers particularly casual/contractual workers from their jobs and not deduct their wages/salary.

The Government of Punjab advised all the employers/owners of Industries, Factories, Shops and Commercial Establishments etc. to not terminate their employees/workers particularly casual or contractual workers from jobs and not to deduct their wages/salary vide its Advisory dated March 28, 2020.

Pursuant to the "Uttar Pradesh Temporary Exemption from Certain Labour Laws Ordinance, 2020" all laws related to labour unions, settlement of work disputes, working conditions, contracts etc will remain suspended for three years for both existing and new factories in the Indian State of Uttar Pradesh. The States of Madhya Pradesh and Gujrat have also embarked on a plan to give a boost to business and industry by allowing units to be operated without many of the requirements of the Factories Act — working hours may extend to 12 hours, instead of eight, and weekly duty up to 72 hours etc.

PRIVACY

Indian privacy law currently recognizes and protects only certain limited information such as sensitive personal data or information (SPDI). Under the Information Technology Act, 2000 and its Rules, SPDI includes 'physical, physiological and mental health conditions' and 'medical records and history.' Health status and medical symptoms would be protected and an employee can also refuse to disclose such information. Thus, an employer will need to comply with the relevant provisions while obtaining, storing, processing and transferring any SPDI of the employees. However, the employer may require the employees to provide travel history/plans, non-work activities, etc. as these information are not protected by Indian privacy laws. That said, the Government may call upon an employer to disclose any infected employee or any employee that may have travelled to a Covid-19 affected country/area, and the employer may need to co-operate with the Government in the public interest. However, the provisions of the present law i.e. the Information Technology Act, 2000 are not fully equipped to deal with the current situation of the pandemic.

CORPORATE LAW

Keeping in view the impact of the pandemic which has severally effected the continuity of domestic and international businesses in India, the GOI has introduced various reliefs and relaxations to cope with the crisis. Such reliefs include:

(i) Company Fresh Start Scheme 2020 introduced by the Ministry of Corporate Affairs (MCA) for condonation of delay of filing the various documents, forms, returns etc., granting waiver of additional fees and immunity from launching of prosecution or proceedings for imposing penalty on account of delay associated with certain flings;

(ii) Permission to spend Corporate Social Responsibility (CSR) funds for expenditure related to pandemic activities;

(iii) Relaxation for mandatory requirement of residency by one director in India, holding of board meeting and shareholders meeting through electronic means even for the matters which requires physical presence of requisite quorum;

(iv) Extension of timeline for various compliances such as company law, Securities & Exchange Board of India, Reserve Bank of India, compliances for export of Goods and Services etc.;

(v) Reliefs provided by the Food Safety and Standards Authority of India (FSSAI) for the import of medical equipment(s);

(vi) Enhancement of minimum amount of default from INR 100,000 (approx. Euros 1250) to INR 100,00,000 (approx. Euros 125,000) with effect from March 24, 2020 for initiating the insolvency proceedings in India.

(vii) Extension of timeline from 9 months to 15 months for realization and repatriation to India of the full amount of export value of goods or software or services exported.

(viii) Banks are advised to provide a 3-month moratorium for the installment payment and repayment of loan regarding the installments and loans due between March and May. However, the interest will still be calculated during the moratorium period on the outstanding due.

(ix) The financial institutions are allowed to defer the interest recovery arising during the period 1st March 2020 up to 31 May 2020 on working capital issued in the form of Cash Credit/Over Draft. The accumulated interest will be subjected to recovery post 31 May 2020.

LITIGATION

The Supreme Court of India ("**ISC**") exercised the powers conferred to it under the Constitution of India on March 23, 2020 and took suo-moto cognizance of a petition for extension of limitation and passed an order extending the limitation prescribed either under general law or special laws, whether condonable or not, for filing any petitions, applications, suits, appeals and all other proceedings in all courts and tribunals with effect from March 15, 2020, until passing of further orders. This Order binds all the Courts, Tribunals and Authorities in the country.

On April 6, 2020 ISC further issued a series of directions in a matter taken up *suo moto* to look into guidelines for the functioning of the Court by video conferencing during the lockdown. The ISC also directed District Courts in various States of India to follow the videoconferencing rules as formulated by their respective High Courts. Video conferencing has been limited to hearing of "extremely urgent matters" both at trial stage or appellate stage and no recording of evidence can be done without mutual consent of both the parties.

Various High Courts pan India have passed administrative orders restricting functioning only to urgent matters along with orders extending the validity of interim orders. However, on May 9, 2020 a new link has been created and made available to make non-urgent, i.e., ordinary filings in the High Court, Delhi and District Courts of Delhi in fresh

as well as pending matters. However, the scrutiny of these filings only be done after the lockdown is lifted, unless otherwise directed.

TAX LAW

The Ministry of Finance, GOI extended deadlines until June 30, 2020 for the compliances such as filing of income tax returns for the Financial Year 2018-2019, other compliances under the Income Tax Act, Wealth Tax Act, Benami Transaction Act, Black Money Act, Securities Transaction Tax law, Equalization Levy Law, the indirect tax dispute redressal scheme etc., extension of due date for issue of notice for all laws linked to duty compliance extended and all goods and services tax (GST) return compliances for March, April, May, and composition returns. Further, the penalty has been reduced to half, from 18 percent to 9 percent for the delay in deposit of Tax Deducted at Source (TDS). The Central Board of Direct Taxes also announced various relief for taxpayers whose application for lower or nil deduction of TDS and Tax Collected at Source is pending for disposal.

FOREIGN INVESTMENTS

On April 17, 2020, the GOI announced an amendment to its Consolidated Foreign Direct Investment Policy ("FDI Policy") vide Press Note 3 of 2020 issued by the Department for Promotion of Industry and Internal Trade which ("DPIIT"). Such amendment to the FDI policy were effectuated pursuant to a notification under the Foreign Exchange Management (Non-Debt Instruments Rules), 2019 on April 22, 2020. Per such Notification, prior approval of the GOI will be required for (i) Foreign Direct Investment ("FDI") by an entity based in any country sharing a land border with India, or if the beneficial ownership of the investment in India lies with an entity or citizen of such country; or (ii) the transfer of ownership of any existing or future FDI in an Indian entity, whether directly or indirectly, resulting in the beneficial ownership falling in the hands of entities/ citizens of a country sharing a land border with India. The notification is clearly targetted at preventing Chinese investment.

The other conditions as applicable under the extant FDI policy (such as permissible and prohibited sectors/activities, investment instruments and pricing norms etc.) will continue to apply.

That said, this additional layer of protection should not needlessly alarm investors as a large number of investments into India have previously come through the government approval route.

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ITALY

ZAGLIO ORIZIO E ASSOCIATI

INTRODUCTION

In general, the outbreak of COVID-19 seems to have concerned the Italian legal framework in two ways:

1) the Government adopted temporary and exceptional acts containing both restrictive measures aimed at preventing the spread of the contagion and provisions aimed at safeguarding business continuity during the lockdown and fostering the economic system at the end of the health emergency;

2) traditional principles of Italian law and, in particular, several contract law principles set forth in the Italian Civil Code have to be construed by the interpreters in the light of a completely new scenario.

The introduction of various new legal acts and the need to contextualise the set of traditional remedies provided under Italian contract law in a completely new situation led legal professionals to substantial interpretative efforts.

Among the wide number of rules adopted by the Government to cope with the health emergency, several interesting measures aimed at boosting Italian economy in the recovery phase can be identified.

EMERGENCY MEASURES

The Italian Government has issued several legal acts as a consequence of the Covid-19 emergency.

These pieces of legislation have had to strike a balance between different and conflicting interests, such as health protection, individual freedom and support to the national economy.

In the first phase of the emergency the prevailing interest was health protection and therefore each legal act adopted either by the national Government or by the regional authorities was mainly focused on introducing strict precautionary measures to prevent the spread of the contagion.

In response to the growing pandemic of COVID-19 in the Country, on March 9, 2020, the Italian Government has imposed a national restriction to individual freedom of movement except for necessity, work, and health reasons. Lockdown measures have been progressively reduced and finally cancelled on May 18, 2020.

Further restrictions have then resulted in the suspension of all non-essential business activities as subsequently identified by the annexes to the Prime Minister's Decrees ("DPCM") dated March 11, 2020, March 22, 2020, March 25, 2020, April 11, 2020, and April 26, 2020.

On March 17, 2020, the Italian Government has adopted the Law Decree no. 18/2020 ("*Decreto Cura Italia*") in order to cope with the economic issues concerning the suspension of business activities and to support Italian businesses.

The main provisions enshrined in the *Decreto Cura Italia* may be summarised as follows:

1) payment suspension and moratorium for loans granted to SMEs and micro-enterprises.

   Micro-enterprises and SMEs with registered office in Italy can benefit from financial measures in order to deal with debt exposures vis-à-vis banks, financial intermediaries and other entities authorised to granting credit in Italy.

   These measures may be requested exclusively with regard to debt exposures that are not classified as "non-performing" as on the date of publication of the *Decreto Cura Italia* and may be summarized as follows:

   - overdraft facilities and loans granted over discount of receivables outstanding as on February 29, 2020, shall not be revoked or cancelled, in whole or in part, until September 30, 2020;
   - loans with bullet repayments expiring prior to September 30, 2020, shall be extended until September 30, 2020;
   - payments of instalments and lease payments relating to loans and other financings repayable in instalments are suspended until September 30, 2020, without additional or increased charges; applicants may also opt for the suspension of the principal component of the instalments only. The relevant amortisation plan shall thus be extended accordingly.

   Banks and financial intermediaries may request the guarantee issued by the Central SME Guarantee Fund up to an amount equal to 33% of the value of the loans granted on a free of charge basis, provided that the above listed requirements are satisfactorily met.

2) extension of the provisions relating to Central SME Guarantee Fund and measures relating to the support through guarantees granted by *Cassa Depositi e Prestiti*;

3) tax incentives facilitating the sale of non-performing loans.

On April 8, 2020, the Government has adopted the Law-Decree no. 23/2020 ("*Decreto Liquidità*") in order to further implement economic measures to support Italian businesses.

Specifically, the *Decreto Liquidità* provides for a double set of guarantees in order to facilitate the access to credit for all companies suffering financial cash-flow shortages due to the economic crisis caused by the health emergency.

These guarantees are intended to support undertakings based in Italy, except for banks or financial institutions and:

- are issued either by SACE SpA or by the Central SME Guarantee Fund for the benefit of companies, individual entrepreneurs and professionals;
- are payable on demand and are irrevocable;
- cover principal, interest and accessories of new loans granted by banks, financial institutions and other entities authorised to grant credit in Italy.

Undertakings within the definition of enterprises in financial difficulties under the EU Regulations no. 651/2014, no. 702/2014 and 1388/2014, or classified as non-performing by the bank system within February 29, 2020, are not entitled to benefit of the above-mentioned guarantees.

SACE SpA will issue guarantees up to an overall value of Euro 200 billion, of which at least Euro 30 billion to back up the financing of SMEs. The aforementioned guarantees will be issued for financing lasting up to a six-year term. For the first 24-month period, the recipients shall only pay the interests on the financing, and the amortisation will start thereafter.

The loans covered by the guarantees shall not exceed the higher between these caps:

(i) 25% of the 2019 annual turnover of the relevant enterprise or

(ii) the double of personnel costs for 2019.

Turnover and costs in Italy are referred to the single enterprise or on a consolidated basis, if the company is part of a corporate group.

Different commissions are set, depending on the size of the relevant undertakings and on the reference period. Such commissions will be limited to the costs and shall be lower than the financing commissions that would have been applied to the loan if the undertaking would have not enjoyed the guarantee.

The companies benefitting from the guarantee shall not distribute dividends or effect share buybacks during 2020, and shall maintain employment levels through agreements with the trade unions.

On May 4, 2020, Italy has started the so-called “Phase 2” and on May 19, 2020, the Government has adopted the Law Decree nr. 34 “*Decreto Rilancio*”, which contains a wide array of extraordinary measures designed to stimulate the Italian economy and speed up the national recovery.

A few of these measures seem to be improving those already provided for by the *Decreto Cura Italia* and the *Decreto Liquidità* whilst others are new and radical.

As said before, the legal provisions set forth in the *Decreto Rilancio* are extremely heterogeneous and cover various sectors. Some of the most interesting measures are going to be summarized in the following paragraphs, depending on the relevant topic.

INSOLVENCY LAW

In accordance with the aforementioned *Decreto Liquidità*, the entry into force of the new Italian Insolvency Code (“Insolvency Code” - Legislative Decree no. 14/2019) has been postponed to September 2021, exception made for the already effective provisions. This decision is clearly aimed at maintaining stability and regulatory certainty in a very changeable scenario.

In this context, the application of the provisions set forth in the Insolvency Code (e.g. the alert system) would have perhaps generated negative effects in terms of stability and the new rules would have consequently failed to achieve their goal, i.e. to facilitate corporate recovery and business continuity.

Furthermore, the *Decreto Liquidità* sets special provisions derogating to insolvency rules, which application might lead economic operators to incur into insolvency proceedings as a consequence of the suspension of their business activity.

The main measures enshrined in section 9 of the *Decreto Liquidità* can be summarized as follows:

- six months extension of the terms for execution of settlement agreements with creditors and approved restructuring agreements expiring between February 23, 2020, and December 31, 2021;

- possible extension up to ninety days of the term for drafting a new proposal or a new plan with regard to the procedures concerning the approval of settlement agreements with creditors or restructuring agreements still pending on February 23, 2020;
- possible extension up to six months of the deadline originally set by the bankruptcy court to fulfill the settlement agreement with creditors or the restructuring agreement;
- extension up to ninety days of the term set by the bankruptcy court to submit the settlement agreement and plan in case of a "*preconcordato*" or "*concordato in bianco*," as well as for the procedure set forth in section 182-*bis*, paragraph 7, of the Law no. 267/1942 (Insolvency Law);
- applications for insolvency cannot be filed in the period between March 9, 2020, and June, 30 2020.

The majority of these measures share a double rationale: on one hand, they are designed to prevent the possibility that insolvency proceedings - started before Covid-19 outbreak and likely resulting in business continuity - are jeopardized by the unpredictable effects of the health emergency; on the other hand, these measures are aimed at reducing insolvency courts workload and allowing the courts to take interim and protective measure in a timely manner, provided that the necessary requirements under section 15, paragraph 8 of the Insolvency Law are complied with.

CONTRACT LAW

The emergency situation caused by the outbreak of COVID 19 has influenced many contracts.

The suspension of business activities has caused indeed disruptions in the supply chains either because suppliers were not able to deliver or because customers did no longer need deliveries.

Furthermore, the effects caused by the emergency measures adopted by the Government affected almost every contract which provides for long lasting performances: for example, the suspension of all commercial (retail) activities has resulted in great uncertainty with regard to the execution of tenancy agreements.

The Italian Civil Code ("ICC") provides for a set of remedies that a performing party may resort to when the other party's non-performance is due to exceptional circumstances out of its control; many of these remedies share the purpose to rebalance the equilibrium of the parties obligations, in order to facilitate the prosecution of the contractual relationship.

First of all, the interpreter must assess if the supervened event disrupting the contractual balance made one party's obligation impossible in accordance with Article 1256 ICC.

Traditionally, the concept of impossibility has been interpreted very narrowly by the Italian courts, so that in each case it may be discussed if the legislative acts adopted by the Italian Government to cope with COVID-19 health emergency shall qualify as *facta principis* suitable to cause the impossibility of debtor's obligation pursuant to Article 1256 ICC excluding debtor's liability.

The aforementioned assessment has to be made on a case by case basis and by taking into account the actual provisions agreed upon between the parties (e.g. a force majeure clause).

That said, from a general perspective it has to be noted that effectiveness of legislative orders imposing the suspension of business activities was expressly limited in time. It is

hence clear that the majority of contractual obligations affected by said orders have not become objectively impossible, but only temporarily limited or too burdensome.

In this respect, it is then necessary to consider legal remedies different from the one set forth under Article 1256 ICC, such as the provisions under Articles 1258 and 1464 ICC.

The former provision states that if performance becomes only partially impossible, the debtor shall be released from its obligation if he performs the portion of the obligation that is still possible. The latter provision provides that when one party's obligation becomes partially impossible, the other party is entitled to a reduction of its obligation and may terminate the contract if no longer interested in receiving a partial performance.

It then seems that if one party's contractual performance is only temporarily hindered by exceptional circumstances, the other party is not released from any obligations, but must still perform the contract, provided that the equilibrium of reciprocal performances is redetermined in the light of the supervened events.

The same principle shines through the remedy provided under Article 1467 ICC, which applies to contracts for the supply of products or services to be performed permanently or recurrently or to contracts which impose long lasting performances to one or both parties. This rule provides that if one party's performance becomes excessively burdensome because of the occurrence of an extraordinary and unforeseeable event, such party will be entitled to terminate the contract, provided that the other party does not propose to amend the contractual conditions in good faith.

In the light of the foregoing, it is believed that even if the economic crisis due to COVID-19 health emergency is unprecedented, its effects on contracts should be limited to the furthest extent possible, in accordance with the general principle of contract preservation.

The most efficient remedy for the parties, both in terms of timing and certainty, seems to be the negotiation in good faith of contractual amendments, which might be appropriate to rebalance the contractual equilibrium.

Nevertheless, it is clear that a similar approach may be prevented by the inflexibility of the one party which obligation is still possible. In this case, the other party shall be (partially) relieved from its obligations and so avoid liability and damages by proving that its obligation has become partially impossible as a consequence of *facta principis.*

This has been clarified by the exceptional provision set forth in Article 91 of the *Decreto Cura Italia*: it is therein stated that Italian courts shall always assess if a breach of contract is due to compliance with those measures adopted by the authorities for preventing the contagion and, if so, exclude contractual liability and penalties for delay in any claims brought under Articles 1218 and 1223 ICC.

The need to safeguard non-performing parties "not at fault" has also led the Ministry of Economic Development to entitle the Chambers of Commerce to issue force majeure certificates to Italian companies.

These certificates are aimed at proving to foreign contractual parties that the delay in contractual performance is due to supervened exceptional circumstances unforeseeable and irresistible.

In conclusion, even if it is undeniable that COVID-19 health emergency caused a high degree of uncertainty with regard to most of the outstanding contracts, the effects determined by such emergency are often not as disruptive as they might appear at first sight.

In fact, pursuant to Italian law, the parties of a contract may resort to a wide set of remedies intended to rebalance their contractual obligations and so preserve the economic function of the agreement.

LABOUR LAW

The health emergency has forced the Italian Government to promote work conditions consistent with the need to contain the contagion. In particular, pursuant to the DPCM April 26, 2020, the main measures are the following:

- all employers have health and safety obligations to keep employees informed about health risks that may arise in carrying out their tasks and to ensure that working practices will not result in higher health risks for the employees;
- fairs, conferences, events or conventions of whatever nature must be delayed;
- employers must limit access to corporate offices/premises to third parties (e.g. suppliers, providers, etc.) whose access is indispensable, and they must submit a notice to employees and visitors at the entrance of corporate offices informing them that anyone who has a body temperature higher than 37.5 C° or flu symptoms, or who has come in contact with people infected by COVID-19, must not enter into the company premises;
- smart working ("work from home") agreements are now recommended in all Italian Regions. Such arrangements can easily be activated without the need for any formalities.

During the lockdown period, smart working has become popular and has produced outstanding results in terms of efficiency. Hence, it may not be surprising if many business organisations decide to further implement smart working activities in the future, regardless of the health emergency.

In Italy, smart working is regulated under Articles 18-23 of Law nr. 81/2017, and its implementation requires an agreement between the employer and the employee. However, in accordance with Article 2.1, par. r), of the DPCM March 8, 2020, smart working may be resorted to at the employer's discretion without formalities. Specifically, it is sufficient to fill out a form through an online procedure. In any case, the employee is entitled with a right to disconnection. In fact, he must grant to the employer full availability during his normal working time, but cannot be requested to work at different hours.

The *Decreto Rilancio* sets out various provisions for the protection of workers, as for example the possibility to renew or extend until August 30, 2020, fixed terms employment contracts, and the possibility to transform undeclared work into formal employment relationships (see Articles from 70 to 110 bis).

In accordance with Article 96, until the end of the health emergency all the private workers, if certain further requirements are fulfilled, are entitled to operate in smart working mode, regardless of the existence of an individual agreement providing for such right. It then seems that the legislator has introduced a right to smart working.

PRIVACY

The precautionary measures adopted as a consequence of the health emergency have raised serious concerns in respect of data protection.

In particular, pursuant to the Protocol signed by the trade unions and the main national interbranch organisations on March 14, 2020 ("*Protocollo Condiviso*"): "*Workers, before accessing to the workplace, may be subject to body temperature control*".

This provision had to be coordinated with the provisions set forth in articles 9 and 88 of the GDPR, as well as with the resolutions passed by the Italian Data Protection Authority on June 4, 2019.

In accordance with the instructions provided for in the aforementioned Protocol, the results of body temperature control cannot be recorded by the controller.

TOURISM AND CULTURE

Italy is known for its rich culture as well as for its scenic landscapes. For this reason, Italy is one of the most visited countries in the world and, in accordance with the data of the Italian Ministry of Cultural Heritage and Tourism, the touristic sector contribution to the Italian GDP for 2019 was around 13%.

In the light of the above, an entire section of the *Decreto Rilancio* is focused on measures to be implemented with reference to the sectors of tourism and culture.

The main measures can be summarized as follows:

- tax credit for travellers meeting certain requirements, up to a maximum of Euro 500 for each family;
- general property tax exemption on hotels, beach resorts, holiday farms;
- creation of state fund for the subscription of shares of private funds investing into purchase, restoration and redevelopment of real estate assets intended for tourist accommodation;
- creation of a fund for financing the promotion of tourism in Italy;
- creation of a fund for encouraging the fruition, enhancement and digitalisation of the cultural heritage.

In addition to the Government's legislative initiatives, it must be pointed out that the economic operators engaged in the touristic industry have already drafted a national protocol aimed at identifying all the necessary health precautions to safely resume activities. Specifically, on April 27, 2020, the national associations (including *Federalberghi* and *Associazione Italiana Confidustria Alberghi*) have approved and implemented the national protocol "*Accoglienza Sicura*".

TAX

Almost all the deadlines for tax compliance have been extended in the light of the ongoing emergency. Furthermore, the Government has recently adopted significant measures for partially relieving Italian enterprises from the tax burden and so foster economic recovery.

In this respect, it must be pointed out that pursuant to Article 27 *Decreto Rilancio*, the undertakings with a less than Euro 250 million turnover are exempted from the payment of both the 2019 balance and the 2020 down payment of the regional business tax (IRAP).

Another measure that might have a remarkable impact on the economic recovery is that provided for in Article 128 *Decreto Rilancio*. This provision sets out a tax credit of 110% for construction works aimed at increasing energy efficiency and/or seismic risk prevention. These incentives are clearly aimed at encouraging renovation works, in order to aid the construction industry and at the same time improving construction safety and environmental compatibility.

EXPORTS AND INVESTMENTS

The *Decreto Liquidità* provides for a number of exceptional measures to support export and internationalization of Italian businesses.

Article 2 assigns the role of promoting the internationalization of Italy's production sector to SACE SpA. The latter shall focus on sectors of strategic value to the Italian economy in

terms of employment and spin-offs for the economic system as a whole and on Countries of strategic importance. For this purpose, it will be appointed an Export Public Financial Support Committee within the Ministry of Finance.

In particular, the following activities may be financed at a reduced rate:

- feasibility studies to assess opportunities to make a commercial or production investment in Countries outside of the EU;
- measures aimed at improving exports of SMEs that have generated at least 35 percent of their turnover abroad over the last three years;
- development programs of e-commerce via the use of a marketplace or an IT platform;
- participation in trade fairs, exhibitions and business missions in new international markets;
- training of personnel on site in investment initiatives outside of the EU;
- training and temporary placement of qualified professionals to implement internationalization projects in Countries outside the EU;
- creation of business structures in foreign markets.

The financing system also offers new opportunities and support for the organization of exports and related company training, enabling the adoption and implementation of customs simplification tools already provided for by EU customs regulations.

The Government has recently taken the above-mentioned measures to the next level under Article 56 *Decreto Rilancio* ("*Measures on export and internationalization*"). In fact, the budget of the financing has been increased from Euro 150 million to Euro 400 million and the "*de minimis*" threshold have been repealed.

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JAPAN

SOEI PATENT & LAW FIRM

INTRODUCTION

It is still unpredictable how the Japanese government is going to react to the COVID-19 outbreak. Government's financial supports to individuals and businesses are still under debate.

EMERGENCY MEASURES

The Act on Special Measure to Deal with New Type Flu was amended to cover the COVID-19. Based on this act, the municipal governors are requesting the residents to refrain from going out without necessity, and requesting the administrators of the facilities where people gather to shut down those facilities on voluntary basis. No penalty is stipulated for non-compliance with these requests.

The government has recently announced that it is going to distribute 100,000 JPY cash per person to mitigate the financial hardship caused by the COVID-19 outbreak.

CONTRACT LAW

No particular measure has been enacted.

LABOUR LAW

Under the Labor Standard Act, when employees are forced to take leave for a reason attributable to the employer, the employees are entitled to receive a leave allowance equivalent to 60 percent of the standard wage from the employer. However if the employer has no choice but to close its business in order to comply with the government's request, i.e. in case any limited form of business while minimizing the possibility of the infection and telework are impossible, the employer does not bear a legal obligation to pay the leave allowance.

Employers who have paid a leave allowance due to difficult business environments are entitled to apply the government for the employment adjustment subsidy to compensate for the burden of the leave allowance. The government declared to take a special measure to loosen the requirements and increase the subsidy. However, this system is rarely used because the amount of the subsidy is limited although a lots of paper works are needed for the application.

PRIVACY

No particular measure has been enacted.

CORPORATE LAW

No particular measure has been enacted. Many Japanese companies hold the shareholder meeting in May or June. The companies have to decide whether they hold the

shareholder meeting as planned or postpone it. It is considered to be possible for a company to allow the shareholders to attend the shareholder meeting online provided that a physical venue is required to be prepared.

LITIGATION

Since February 2020, the courts started holding a hearing session through video conference upon request from the parties. However, in practice, the courts are simply postponing hearing session for indefinite period.

TAX LAW

Under the present tax laws, payment deadline of regional taxes can be extended. The government is reported to be considering extension of payment deadline of national taxes, reduction of the property ownership taxes and tax incentive for investments in telework systems.

FOREIGN INVESTMENTS

Deadline of reports under the Foreign Exchange and Foreign Trade Act can be extended.

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KOREA

LEE & KO

INTRODUCTION

With the proliferation of COVID-19, many companies are facing unexpected problems in various areas, such as labor, contracts, and privacy. In order to help clients continue to operate their business in Korea during these challenging times, Lee & Ko provides below simple guidelines for each area. As the information is general in nature, please contact us at our contact information below if you need concrete legal advice or are looking to make a decision.

EMERGENCY MEASURES

As in many other countries, there are various forms of financial support and relief available to companies impacted by COVID-19 in Korea. There are generally three types of such financial support available9, and compensation is also provided for damages incurred due to government measures implemented to prevent the spread of COVID-19, as outlined below.

1. Support Subsidy for Maintaining Employment:

Under the Employment Insurance Act, the Ministry of Employment and Labor ("MOEL") provides subsidized support for certain eligible companies if they reduce employee work hours or temporarily suspend their operations in the face of unavoidable circumstances, such as sudden drastic decline in revenue. The purpose of the support is to encourage companies to reduce work hours or suspend work, rather than lay off workers as they otherwise may need to do. After the COVID-19 outbreak, the eligibility requirements have been gradually relaxed to make the subsidy available to more companies, regardless of the industry.

As of March 25, 2020, a company is eligible for support if (i) it reduces work hours or its work force by 20% or more in one month or orders its employees to suspend their work for more than one month due to COVID-19, and (ii) pays its employees the required business-suspension allowance or paid-leave allowance.

These allowances must be paid to employees under the Labor Standard Act if the business is suspended for reasons attributable to the employer. The Act requires the employer to pay at least 70% of the employee's average wage for business-suspension allowance or paid-leave allowance.

If granted, the support subsidy will be up to 3/4 of the business-suspension allowance or paid-leave allowance for small and medium enterprises ("SME") and certain other companies designated as requiring priority support, or 2/3 for large companies, of which the amount is capped at KRW 66,000 per day per employee. This support is available from February 1 to July 30, 2020, during which period the suspension allowance or paid leave allowance was paid. (In case of companies subject to priority support, the government further increased the ceiling to up to 90% for the period from April to June 2020.)

2. Support Subsidy for Paid Leave:

Under the Infectious Disease Control and Prevention Act, the Ministry of Health and Welfare ("MOHW") provides a support subsidy to an employer that provides paid leave to an employee who is hospitalized or quarantined due to COVID-19. The amount of the daily subsidy, computed based on the monthly salary according to a prescribed formula, is capped at KRW 130,000 per day. However, this subsidy is not available if the affected employee has applied for and receives a living support allowance that the government has made available under the same law to employees who are hospitalized or quarantined due to COVID-19.

3. General Subsidy for Corporations:

The Ministry of Economy and Finance announced on March 24 that it would increase the emergency corporate subsidy fund from KRW 50 trillion to KRW 100 trillion, which will be utilized to provide guarantees or loans for businesses in need of financial support and to stabilize the bond market. The government will use this fund for various corporate relief measures, as part of the government's "public welfare and financial stabilization package."

The government has instructed various financial institutions to provide financial support for corporations in various sectors including tourism, air carrier, food service and shipping industries as well as corporations that export/import products. The government will also expand its support for SMEs by providing government-funded loans and guarantees, while financial institutions will provide extensions of maturity and grace periods on interest payments to corporations starting April 1, 2020. The government will also purchase corporate bonds and support companies in issuing their P-CBO (primary collateralized bond obligation).

4. Compensation for Damages Due to Government Measures:

Any person or business that has been adversely affected by government measures implemented to prevent the spread of COVID-19 may file a claim for compensation with the MOHW or the municipal government. The MOHW and the municipal government will compensate any such loss in accordance with the decision made by the Loss Compensation Review Committee. Examples of government measures include a mandatory order to close the workplace due to COVID-19 preventing the use of facilities, equipment or personnel, and to disinfect the workplace in accordance with the Infectious Disease Control and Prevention Act. The MOHW is expected to provide more detailed guidelines on the compensation criteria.

CONTRACT LAW

Under Korean law, while 'force majeure' is prescribed as grounds for exemption of liability in very limited areas of the law, such as the exemption of liability for carriers or aircraft operators, there is no force majeure clause in the Korean Civil Code that applies to contracts in general.

However, relevant Supreme Court precedent holds that in order for a party to argue that an event constitutes force majeure, (i) the cause must be outside the realm of the party's control and (ii) the party, despite having exerted reasonable efforts, was not able to foresee or prevent such event (Supreme Court of Korea Decision 2008Da15940, 15957 Decision). Based on such court precedent, the elements of a force majeure event are (i) a cause outside of the party's control and (ii) lack of foreseeability/preventability.

Under the Civil Act of Korea, since force majeure refers to a circumstance where a party is not at fault for non-performance of an obligation, recognition of force majeure will allow a party to be exempted from performing a contractual obligation altogether or from damages for non-performance (Civil Act, Article 537, Article 390). Although the Korean Supreme Court does not have a uniform set of rules it uses to determine force majeure, it looks at the details of the case to determine whether the event could have been foreseen or prevented, taking into account the language of the relevant contract. Even if a contract does not include any force majeure clause, courts may find the obligor to be without fault and exempt liability based on force majeure, when the relevant event arises outside of a party's control and cannot be prevented or foreseen with reasonable efforts.

However, from the perspective of contractual liability, a party seeking exemption of liability must establish force majeure. So far, courts have rarely acknowledged force majeure as a basis for exemption of liability, reserving it for exceptional situations. For reasons cited above, whether COVID-19 outbreak qualifies as a force majeure event will depend on the unique circumstances in each case, contract terms and the governing law. In the construction industry, the Ministry of Land, Infrastructure and Transportation issued an opinion that circumstances arising from responding to the COVID-19 outbreak qualifies as a force majeure event that is stipulated in standard construction contracts. However, such opinion would not apply to other contracts in general. Therefore, those seeking to avoid liability for damages caused by the spread of COVID-19 should review whether it is possible to declare force majeure in their specific case and promptly engage in discussions with the counterparty regarding a possible exemption of liability. If the counterparty is expected to declare force majeure, then one should review whether the given situation qualifies as a force majeure event and discuss with the counterparty, but may also consider the option of termination to get out of the contract, if possible.

LABOUR LAW

In response to the spread of COVID-19, many companies in Korea have introduced various measures, such as having their employees work from home, reducing their working hours, implementing a temporary business suspension and placing employees on unpaid leave. In this regard, we provide an overview of some of these considerations from a legal standpoint.

1. **Employer's obligation to compensate employees diagnosed with COVID-19 during their leave of absence**

In principle, if an employee cannot work because he or she is hospitalized or quarantined by the health authorities, the employer is not legally obligated to compensate the employee concerned during the period he or she is absent from work. However, under Article 41 (2) of the Infectious Disease Control and Prevention Act ("IDCPA"), if the government provides subsidies, the employer shall grant the employee concerned paid leave during the period in which he or she is hospitalized or quarantined. In this regard, the National Pension Service has been receiving applications from employers from February 17, 2020 to provide subsidies based on individual daily wage (up to KRW 130,000 per day) to employers who grant paid leave to employees who are quarantined under the IDCPA.

As such, if an employer receives subsidies from the government for paid leave pursuant to the above process, the employer is required to provide paid leave, and if the daily wage of the employee concerned exceeds KRW 130,000, the employer is required to pay the difference.

2. Employer's obligation to pay a business suspension allowance

Under Article 46 of the Labor Standards Act ("LSA"), in case of a business suspension due to a cause attributable to the employer, the employer shall pay each employee at least 70% of his/her average wage as a business suspension allowance during the business suspension period (provided that if the amount equivalent to 70% of their average wage exceeds the ordinary wage, the latter shall be paid as the business suspension allowance.) However, if a company temporarily shuts down due to discovery of a COVID-19 infected employee or visitor on the company premises or prohibits potentially exposed employees from reporting to work, an issue may arise over whether the employer is required to pay business suspension allowances.

Even though a business suspension due to force majeure, such as quarantine measures implemented by the government, would exempt the employer from paying business suspension allowances, we note that "a cause attributable to an employer" as provided in Article 46 of the LSA above may be interpreted broadly to include not only the employer's intentional acts or negligence, but also any cause occurring in an area under the employer's control. Accordingly, if an employer takes precautionary measures due to an infected person, such as suspending business operations or prohibiting potentially exposed employees from reporting to work, such measures will be regarded as a business suspension due to a cause attributable to the employer, and the employer will be required to pay business suspension allowances of at least 70% of their average wage.

In addition, as annual paid leave should be used voluntarily by employees, an employer cannot unilaterally exhaust the annual paid leave of employees during the business suspension period against their will.

3. Leave of Absence for Family Care, Leave for Family Care and government support regarding COVID-19

Under the Equal Employment Opportunity and Work-Family Balance Assistance Act, if an employee requests a leave of absence or leave to take care of his or her family on account of a family member's illness, accident or old age for up to ten or 90 days per year depending on the type of leave, the employer shall grant such request. In addition, employees may request Leave for Family Care for up to ten days to urgently take care of children as needed. As such, under the current circumstances, employees may take Leave of Absence for Family Care for up to 90 days this year or Leave for Family Care for up to ten days this year to take care of family members diagnosed with or suspected to be infected with COVID-19. Furthermore, if employees need to urgently take care of their children due to the closing of schools, private education institutes, etc., they may take Leave for Family Care for up to ten days per year.

As to whether the above Leaves are paid, we note that, in principle, an employer is not required to pay during Leave of Absence for Family Care and Leave for Family Care. Nonetheless, according to the Guidelines of the MOEL announced on February 28, 2020 regarding providing support for stabilizing employment in response to COVID-19, the government plans to temporarily provide subsidies of KRW 50,000 (up to KRW 500,000 for both parents in total) per day per person for up to five days (or up to ten days for single parents) to those who urgently need to take care of a child who is eight years of age (or in the second grade of elementary school) or younger due to the closing or delay in starting the semester for daycare centers, kindergartens or schools.

4. Utilization of flexible work system

Based on business circumstances, employers may consider implementing measures such as employees working from home or working remotely, and employing a staggered working hour system so that employees can continue to work without using their leave or to avoid imposing a business suspension. As long as it is not specified in the employment agreements or the rules of employment that employees are required to only provide their services at a designated location and during a designated time period, employers may utilize such flexible work systems without changing the rules of employment.

PRIVACY

According to the IDCPA, when an alert higher than 'caution' is issued pursuant to the Framework Act on the Management of Disasters and Safety, the MOHW must promptly disclose information with which citizens must be acquainted in order to prevent the spread of an infectious disease, such as an infected person's transportation route, transportation means, medical treatment facility, and identity of those who came into contact with the infected person.

Therefore, since it is MOHW's duty to disclose information related to COVID-19, if there is a confirmed case of COVID-19, the patient's personal information (e.g., nationality), path of infection, date of diagnosis, hospitalization status, hospitalized institution, contact tracing information are disclosed in accordance with the IDCPA. However, when disclosing the movement routes of the infected person, any information that enables identification of an individual, such as the person's name, must be excluded from disclosure.

LITIGATION

Many courts went into a temporary recess during February and March and rescheduled hearings to after mid-April. However, there were no delays in procedural deadlines for on-going cases, such as the deadlines for filing appeal, submitting an answer, etc. Court hearings are now being held as usual, however, it is mandatory to wear a face-mask in court.

TAX LAW

Korea's National Tax Services announced on February 7, 2020, that it would provide national tax relief/support for taxpayers who suffered damages due to COVID-19. Such relief is available to corporate and individual taxpayers engaging in the tourism and hospitality sectors (food and lodging), transportation, concert/performances, medical services (hospitals/medical clinics), and wholesale and retail sales.

For example, the following taxpayers engaging in one of the business sectors above would be eligible for tax relief/support: an individual who is a confirmed patient or is subject to quarantine, a business with a confirmed case or a workplace where a confirmed case has visited, a business with a workplace located near facilities occupied by Korean returnees from Hubei Province, in China, and an SME transacting with China.

The national tax relief/support includes an extension on the deadline for filing tax returns, a similar extension on payment of corporate taxes, a postponement on issuing notices to pay delinquency fines and on collecting such fines, the prepayment of tax refunds, and suspension of tax audits.

In addition to this national tax relief, on February 5, 2020, the Ministry of Interior and Safety requested all municipal governments in Korea to implement local tax relief measures (similar to the above) for taxpayers who suffered damage due to COVID-19.

FOREIGN INVESTMENTS

The Customs Service will operate a 24-hour customs support system to expedite the import/export process for companies that experienced import/export delays due to COVID-19. The Customs Service will also (i) conduct minimum inspection and review of imported/exported goods to expedite customs clearance, (ii) allow extensions on payment of customs duties and/or allow customs duties to be paid in instalments, and (iii) suspend customs audits to support companies during the COVID-19 outbreak.

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MOROCCO

BENNANI & ASSOCIÉS LLP

INTRODUCTION

In response to the unprecedented global health crisis linked to Covid-19, Morocco reacted by implementing several measures to mitigate the negative effects of Covid-19 on the national economy.

EMERGENCY MEASURES

As part of the riposte against Covid-19, Morocco has adopted two main emergency measures, namely Decree-Law No. 2-20-292 of March 23, 2020 enacting specific provisions for the state of health emergency and the measures of its declaration (the "**Decree-Law No. 2-20-292** ") and the Decree No. 2-20-293 of March 24, 2020 declaring a state of public health emergency throughout the national territory to deal with the spread of corona virus Covid-19 (the "**Decree No. 2-20-293**").

Pursuant to Article 1 of Decree-Law No. 2.20.292 on the state of health emergency and the procedures for declaring it, the authorities are authorized to take all necessary and appropriate measures and also to declare a state of health emergency in any region, prefecture, province or municipality, as well as throughout the national territory in case of need, whenever the safety of persons is threatened by an epidemic or contagious disease.

Hence, in application of Decree-Law No. 2-20-292, a state of public health emergency was declared throughout the national territory on March 20, 2020 until April 20, 2020, in order to deal with the spread of Covid-19.

In general, the measures taken include the following:

- Moroccan citizens' movements are conditioned by obtaining an exceptional authorization from the local authorities for extreme necessity (to buy essential products (food products) within the perimeter of the place of residence, to get to hospitals or obtain medicines from pharmacies, and to get to work for open administrations and establishments);

- Employees need to be provided by their employers with employment certificates indicating complete information of the company and the employee;

- A total curfew from 6 pm to 6 am;

- All national and international passenger flights are suspended;

- Public transport and taxis are functional inside cities only; and

- Shops (except shops selling food and hygiene products and pharmacies), restaurants, theaters, cafes, cinemas and religious establishments are closed.

On April 18, 2020, the Government Council adopted a draft decree (No. 2.20.330) extending the state of emergency until May 20, 2020 at 6 pm.

Furthermore, Morocco has instituted an Economic Watch Committee (the "**CVE**") composed of several Ministries and public and private institutions to mitigate the effects of the Covid-19 crisis at the economic and social levels by enacting a series of specific measures, which must be the subject of agreements between the government and the institutions concerned.

CONTRACT LAW

Regarding Contract Law, please note that there is no specific provision provided for private contracts. Thus, the general provisions of the Contracts and Obligations Law will apply in the absence of any specific provisions relating to Covid-19.

Furthermore, with regard to public procurement contracts, the Ministry of Finance has decided to consider the impact of the state of health emergency and containment measures as a case of force majeure.

Consequently, companies holding public contracts will not be subject to penalties for delays in execution for which they are not responsible.

LABOUR LAW

As part of Labor Law, the CVE has taken the following measures regarding the employees:

- All employees declared to the National Social Security Fund (the "**CNSS**") in February 2020, who are on leave due to the cessation of activity of a firm in difficulty, will benefit from an indemnity amounting to a net monthly lump sum of MAD 2,000 together with the family allowances, and the Mandatory Health Insurance's services. This support will be provided by the Special Fund for the management of the Coronavirus pandemic;
- Such employees will also be able to benefit from the deferral of the repayment of bank loan installments (credit consumption and buyer credit) until June 30, 2020;
- Relaxation of reporting procedures for employees affiliated to the CNSS who are on temporary leave. Since April 2020, declarations can be made on a weekly basis; and
- Informal sector workers not declared to CNSS will also receive a financial assistance. Families of two people or less will receive stipends of MAD 800, while families of three to four people will receive MAD 1,000. Families of more than four people will benefit from MAD 1,200.

PRIVACY

In Morocco, health data are considered, under the terms of Law No. 09-08 relating to the protection of natural persons with regard to the processing of their personal data, as sensitive data requiring the implementation of enhanced protection and security measures.

In the specific context of the state of emergency, the National Commission for the Control of Personal Data Protection (the "**CNDP**") issued a Deliberation (No. D-106-EUS/2020 of 23/04/2020) regarding the control of temperatureof employees when accessing the workplace for the duration of the state of health emergency.

Pursuant to such Deliberation, the employer is not allowed to take any measures that could infringe on the privacy of the persons concerned, in particular by collecting health data, which would go beyond the management of suspicions of exposure to Covid-19.

Under the control of an occupational doctor, and exceptionally, during the state of health emergency, the CNDP gives the employer:

- the possibility of using the temperature-taking tools to control the temperature of employees, subcontractors and visitors. The health data controller (*responsable de traitement*) is obliged to inform the data subjects of such process, by means of a poster or pictogram at the entrance to the workplace;

- the possibility to refuse access to its premises to any person refusing to take this temperature control, provided, however, that it does not constitute a measure of discrimination against the person concerned, but only a measure intended to preserve the community health ;

- the possibility of using, under the control of an occupational doctor and in accordance with the recommendations of the health authorities, adequate technological means for the collection of body temperature on an individual basis; and

- the possibility of establishing, under the control of an occupational doctor, and for the duration recommended by the health authorities, temperature history curves with the sole purpose of detecting situations requiring intervention for the benefit of individual and community health.

All the above-mentioned processing operations must be notified by the data controller to the CNDP.

The CNDP has set up a mechanism for receiving notifications and authorization requests of personal data processing relating to Covid-19 by e-mail.

Furthermore, the CNDP has also taken measures to protect the personal data of employees working at home in teleworking mode.

Provided that the employer is required to duly inform his employee of all his rights, the CNDP may authorise, on a case-by-case basis, for the monitoring of the activities of employees working at home in teleworking mode, after examination of the notification file of the planned processing operation, and depending on the guarantees provided by the controller, the following :

- the communication of the teleworker's personal data, in particular his/her telephone number and physical address to third companies;

- webcam recordings during telework slots for deterrence and fraud prevention purposes, not in a systematic and not generalised way, and in the sole situation where the employer is the owner of the telework tools; and

- screenshots, considered as traces of application logs, in a non-systematic and non-generalized manner, and in the sole situation where the employer is the owner of the telework tools; and owns the teleworking tools.

CORPORATE LAW

As part of Corporate Law, the CVE has taken the measures regarding small and medium-sized enterprises and micro enterprises which are in difficulties as follows:

- Suspension of the payment of social security contributions until June 30, 2020;
- Introduction of a moratorium on the repayment of bank loans and on the repayment of leases until June 30, without payment of charges or penalties;
- Activation of an additional operating credit line granted by the banks and guaranteed by the Central Guarantee Fund (*Caisse Centrale de Garantie*); and
- Implementation of a zero-interest loan for self-entrepreneurs, impacted by the Covid-19 crisis, up to an amount of MAD15,000, repayable over a period of up to 3 years with a one-year grace period.

Furthermore, please note that the Government Council has adopted a bill allowing, during the state of emergency, the deliberative bodies of joint-stock companies (*Sociétés anonymes*) to hold their meetings by videoconference for the approval of their financial accounts.

For companies making public offerings, the Moroccan Capital Market Authority (AMMC) invited them to comply with their information obligations during the state of health emergency and continue to proceed with the necessary publications via the electronic publication platforms and legal gazettes.

LITIGATION

Pursuant to Decree-Law No. 2-20-292, during and until the first day following the lifting of the state of health emergency, the course of all legal time limits provided for by the laws and regulations in force shall be suspended, with the exception of time limits for appealing against criminal judgments handed down against accused persons being held in custody, and time limits relating to police custody and pretrial detention.

Furthermore, by Instruction No. 1/151 of March 16, 2020, the Deputy Chairman of the Supreme Council of the Judiciary announced that all hearings in all courts are suspended and postponed until further notice, except those concerning : (i) criminal and misdemeanor cases involving defendants in pretrial detention; (ii) instructions to determine whether defendants will be remanded in custody or released; (iii) juvenile cases to determine whether they will be placed in rehabilitation centers or handed over to their parents; and (iv) summary proceedings.

Also, by Instruction No. 113/3 of March 23, 2020, the Deputy Chairman of the Supreme Council of the Judiciary reiterated the need to comply with the Government's quarantine measures and to avoid the displacement of detainees and to postpone hearings without bringing detainees to court until the end of the quarantine period.

TAX LAW

As part of Tax Law, the following tax measures have been implemented:

- Companies which turnover for the 2019 financial year is lower than MAD 20 million may, if they so wish, benefit from a deferral of the filing of tax returns and statements until June 30, 2020;
- Suspension of tax audits and notifications to third party holders (*avis à tiers détenteur*) until June 30, 2020;

- Postpone the deadlines for tax returns for individuals who wish to do so, from the end of April to June 30, 2020; and
- Exempt from income tax, any additional compensation paid to employees (affiliated to the CNSS) by their employers, up to 50% of the average net monthly salary.

Foreign Investments

As part of Foreign Investments, the filing of companies' incorporation files is suspended at the Regional Investment Centers until further instructions.

However, an electronic platform is available online to carry out all administrative procedures for the submission and processing of applications for investment projects.

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NORTH MACEDONIA

ODI LAW

INTRODUCTION

Since the outbreak of COVID-19 in North Macedonia, the Macedonian Government implemented a range of measures to protect and support companies and citizens. We set out below an overview of the recently adopted legislation which applies to economy, companies, employers and citizens.

EMERGENCY MEASURES

On 13 March 2020, the Government adopted a Resolution on Measures to Prevent Entry and Spread of the Coronavirus COVID-19 (as amended and restated) for closing of kindergartens, elementary schools, high schools and universities, closed-type shopping malls, sport and fitness centres, cafes, restaurants and bars. After declaring a state of emergency on 18 March 2020, the Government adopted a Resolution on a Ban and a Special Regime of Movement on the Territory of the Republic of North Macedonia dated 21 March 2020 (as amended and restated) implementing curfew on the whole territory of North Macedonia, which shall be in force throughout the duration of the state of emergency. Also, under the Government's Decree on the application of the Law on Public Gatherings dated 20 March 2020 any kind of public gatherings during the state of emergency are prohibited. The wearing of personal protective equipment, i.e. face masks is mandatory and the distance between persons must be at least 2 meters.

CONTRACT LAW

Under Macedonian law, a party to a contract may be excused from performance of the contract following the occurrence of an event beyond the reasonable control of the party concerned which has a material adverse effect on that party's capacity to perform the contractual obligation (force majeure). If the party affected has fulfilled its contractual obligation, fully or partially, it has the right to demand from the other party to receive back the object or the benefit of the obligation performed.

Under Macedonian law, there is no definition of the relevant events which constitute an event of force majeure. Accordingly, such events are typically set out in a force majeure clause in a contract. A typical force majeure clause under Macedonian Law is as follows:

"*Force majeure means epidemic and pandemic, quarantine, illness, war, emergency, accident, fire, earthquake, flood, storm, industrial strike or another impediment which the affected party proves was beyond its control and that it could not reasonably be expected to have taken the impediment into account at the time of the conclusion of this contract or to have avoided or overcome it or its consequences. If the performance by either party of any of its obligations under this contract is prevented or delayed by force majeure for a continuous period over three months, the other party shall be entitled to terminate this contract by giving written notice to the party affected by the force majeure.*"

A party seeking to rely on a force majeure due to the Covid-19 pandemic will have to demonstrate the following:

- The Covid-19 pandemic (or the consequences of it) falls within the scope of the force majeure clause, whether because there is an express reference to epidemics or pandemics or because the pandemic is caught by the general language in the force majeure clause. In the absence of a force majeure clause, the threshold for force majeure to succeed is high and the legal challenges are onerous.
- The Covid-19 pandemic affected the performance of the contract by the relevant party, to the extent specified by the force majeure
- The relevant party has taken reasonable steps to mitigate the impact of the Covid-19 pandemic on the performance of the contract. In particular, a problem caused by the Covid-19 pandemic is unlikely to be "*beyond the control*" of a party if it could have taken steps to resolve it.
- The Covid-19 pandemic (or the consequences of it) was the effective cause of the affected party's failure to perform the contract. If there is another reason for the failure to perform which falls outside the scope of the force majeure clause, the provision is unlikely to apply. Equally, a force majeure clause is unlikely to be triggered if the Covid-19 pandemic has prevented one method of performing the contract, but alternative methods of performance still exist.
- The relevant p*arty has given notice to the other party. Typically, force majeure clauses require the affected* party to give notice as a condition precedent to triggering the operation of a force majeure clause. The affected party should consider whether any supporting documentation is required under the contract and if so, any timing or other formal requirements which are applicable.

Hardship

There may be companies for which the Covid-19 pandemic is not preventing performance (so they cannot rely on force majeure), but in which it makes continued performance financially undesirable. In this case, they may try to argue that there is hardship and demand the terms of the contract to be amended or the contract to be terminated immediately. There is hardship where the occurrence of events fundamentally alters the equilibrium of the contract either because the cost of a party's performance has increased or because the value of the performance a party receives has diminished, and

- the events occur or become known to the disadvantaged party after the conclusion of the contract;
- the events could not reasonably have been taken into account by the disadvantaged party at the time of the conclusion of the contract;
- the events are beyond the control of the disadvantaged party; and
- the risk of the events was not assumed by the disadvantaged party.

The threshold for hardship is very high and the relevant party must demonstrate that its obligations had become impossible, illegal or radically different from what was contemplated when the contract was made.

LABOUR LAW

North Macedonia has implemented a range of measures to protect employees in both the public and the private sector, in particular, "*extremely vulnerable*" employees from contracting COVID-19. Employees failing into this "*extremely vulnerable*" group include

those with an underlying health condition, pregnant women and senior citizens. We set out below an overview of the special rules which apply to employers in the private sector during the COVID-19 crisis.

Release from work

Based on the Government's recommendations, employers are required to release from work employees who are parents of children up to the age of 10, pregnant women and employees with a chronic illness. Those employees, however, must make themselves available to employers for 2-3 hours per day in case of urgent situations. They are entitled to full pay, even though they are released from work. Also, such employees must use their accrued annual leave for 2019 and the first part of the annual leave for 2020 by the end of May 2020 at the latest.

Employers who are not allowed to operate due to the Government's measures (for example, organisations from the transport, hospitality and leisure industries) can release employees from work (they are not obliged to), due to a force majeure. In such case, all employees of such organisation are entitled to receive 50% of their regular pay, regardless if they fall into the "extremely vulnerable" group or not.

All employers must reorganise working hours to adjust to the curfew introduced by the Government which is in effect from Monday to Friday from 16:00 to 05:00 and throughout Saturday and Sunday.

Sick leave

Employees diagnosed with COVID-19 are entitled to sick leave receive pay of 70% for the first 15 days of sick leave and 90% for sick leave of more than 15 days. Employers are required to cover the pay for the first 30 days of sick leave and the Health Insurance Fund for the period exceeding 30 days. The base amount for the pay is the average salary paid to the employee in the last 12 months. Employees who are self-isolating for prevention of the spread of COVID-19 because of a recent trip to a high or medium risk country or who have been in contact with a person diagnosed with COVID-19 are not entitled to sick leave. These employees must justify their absence from by providing a decision for mandatory self-isolation issued by the State Sanitary and Health Inspectorate.

Health and safety at work

Employers who are allowed to operate during the COVID-19 crisis are recommended to allow all employees to work remotely whenever this is possible. Employees who work from home are entitled to full pay. Employers who cannot allow employees to work remotely must take appropriate measures to ensure the health and safety of employees. Keeping the employees informed on the health authorities' recommendations for the prevention of the spread of COVID-19 is an absolute priority. Also, employers who are engaged in manufacturing processes must:

- Reduce the number of employees in the manufacturing facilities to ensure a physical distance from 1,5 m to 2 m
- Provide hand sanitiser and surface disinfectants in the manufacturing facilities
- Ensure that employees act in compliance with the protective measures during the working hours and avoid mutual contacts
- Provide frequent indoor ventilation in manufacturing facilities

- Administrative work and signing of documents to be carried by one employee who must wear protective gloves and mask
- Employees who work in the security of the manufacturing facilities to wear personal protective equipment
- Distributors of products to wear personal protective equipment
- Work premises, especially manufacturing facilities to be disinfected every week.

On the other hand, employees must comply with the measures. Most important, employees must give notice to the employer if they become aware of any circumstances which might threaten their health and the health and safety of other employees. In this context, employees who develop COVID-19 symptoms must immediately notify the employer and self-isolate for 14 days.

Financial support from the Government

Employers who are most affected with COVID-19 crisis are contemplating to reduce the size of the workforce. For the preservation of jobs, the Government has introduced a financial assistance package under which eligible companies can receive subsidies for employees, that is up to EUR 250 for salaries and 50% of mandatory social contributions for April and May 2020. under the recently developed Governmental packages of economic measures. Employees who were dismissed due to redundancy are entitled to a monetary allowance in an amount which depends on several factors.

PRIVACY

Data plays a significant role in preventing the spread of COVID-19. Still, data controllers and processors must ensure the protection of the personal data of the data subjects. A balance must be struck between protecting public health and privacy of data subjects. The protection of public health may legitimise certain restrictions of freedoms provided these restrictions are proportionate and limited to the purpose of processing. We set out below a high-level overview of data protection considerations in the context of the COVID-19 outbreak in North Macedonia.

Processing by public authorities

The Macedonian Data Protection Act 2020 ("**DPA**") applies to the processing of personal data in the context such as the COVID-19 outbreak. Under the DPA, public authorities can process data without relying on the consent of individuals when processing is necessary for reasons of protection against significant cross-border health threats.

Public authorities, however, must still comply with DPA's core principles of processing of data such as (i) purpose limitation; (ii) transparency; (iii) retention limitation (iv) adequate security measures; (v) data minimisation; and (vi) documentation on the decision-making process relating to the processing of the data. They must provide data subjects transparent information on the processing activities that are being carried out and their main features, including the retention period for collected data and the purposes of the processing. The information provided should be easily accessible and presented in clear and understandable language.

North Macedonia is the first country in the Western Balkans to launch a contact-tracing app to tackle the spread of COVID-19. The primary function of "StopKorona" is to discover events (contacts with COVID-19 positive persons) for public health authorities to identify

the persons that have been in contact with a person infected by COVID-19 and ask him/her to self-quarantine, rapidly test them, as well as to provide advice on next steps, including what to do if developing symptoms.

Processing by employers

In an employment context, employers can require employees to provide to complete a declaration/self-assessment as to whether they have travelled to any of the high-risk countries as designated by the World Health Organisation (WHO) or whether they have been in close contact with someone who has been positively tested for COVID-19. The processing of such data can be justified on:

- the employers' legal obligation to ensure occupational health and safety of the workforce employees; or
- The legitimate interests of employers to ensure business continuity.

Employers also can require employees to disclose if he/she is COVID-19 positive. In such cases, employers should refrain from revealing the identity of that employee to other employees as that would involve disclosing sensitive personal data and would be unlawful under the DPA. However, depending on the circumstances, employers may be required to give notice to the health authorities about such an employee to prevent any further spread within the organisation.

CORPORATE LAW

The exercise of corporate rights and obligations remains unchanged and there are no new applicable legal provisions related to the establishment of a company, shareholders meetings and operation of the companies.

The Macedonian Government has only adopted a Decree with a legal force for the application of the Companies Law which entered into force on 13 May 2020 (Official Gazette of the Republic of North Macedonia no.123/2020). The relevant provisions of this Decree set out that the (i) scanned documents submitted electronically to the Commercial Register of the Republic of North Macedonia shall be considered as credible accounting documents based on which the commercial books have been kept, and (ii) deadline for submission of the approved financial reports accompanied with the annual activity report for 2019 for the large and medium-size limited liability companies is suspended during the state of emergency and is prolonged by the length of the suspended period.

LITIGATION

The emergence of the COVID-19 virus in the Republic of North Macedonia and the declaring a state of emergency has greatly hampered the functioning of the judicial system in the Republic of North Macedonia. The exercise of the rights of citizens in court and administrative proceedings is regulated by the Decree with legal force for deadlines in court proceedings during the state of emergency and the conduct of the courts and the public prosecutor's office, which entered into force on 30 March 2020 (Official Gazette of the Republic of North Macedonia no.84/20 and 89/20), as well as with the Decree with legal force for the application of the Law on General Administrative Procedure during the state of emergency, which entered into force on 24 March 2020 (Official Gazette of the Republic of North Macedonia no.76/20). With the Decree on deadlines in court proceedings during the state of emergency is provided with a moratorium on legal and

preclusive deadlines for: (i) filing a lawsuit in litigation, private lawsuit in criminal proceedings, (ii) proposal for criminal prosecution, proposal for initiating out-of-court proceedings, (iii) submitting a request for enforcement, a procedure for securing and (iv) claims, a lawsuit for initiating an administrative dispute, or starting another litigation. According to the Decree, the stated legal and preclusive deadlines cease to flow at the time of entry into force of the Decree until the cessation of the state of emergency.

With the Decree on the application of the LGAP during the state of emergency, it is also prescribed a moratorium on deadlines that in accordance with the Law on General Administrative Procedure, except in public procurement procedures, they are determined to take certain actions in the procedure, i.e. the deadlines determined by the authorised official. Accordingly, this Decree, the deadlines that expire during the state of emergency, cease to flow during the state of emergency and continue after the expiration of the state of emergency, but only for as many days as remained, from the day of the expiration of the state of emergency. The Decree on the application of the LGAP during the state of emergency, however, also provides an exception, on the basis of which the authorised official, at the request of an interested person due to justified reasons, may decide differently on the deadlines in the administrative procedure prescribed by the Decree. The flow of all deadlines covered by the two Regulations above has been stopped during the state of emergency, more precisely, the deadlines have been set. After the termination of the duration of the state of emergency, all deadlines covered by the regulations will continue, and the time that has elapsed before the suspension, i.e. the stay calculates within the deadlines.

TAX LAW

The Government of North Macedonia has adopted Decrees with a legal force which provide tax solutions during the state of emergency.

Firstly, with the Decree with legal force for the application of the Law on tax procedure which entered into force on 26 March 2020 (Official Gazette of the Republic of North Macedonia no.79/20) the interest paid on the taxes for each day of delay is reduced from 0,03% to 0,015%.

Secondly, several exemptions have been adopted, as follows:

(i) the Decree with legal force on the application of the Law on profit tax during a state of emergency which entered into force on 26 March 2020 (Official Gazette of the Republic of North Macedonia no.79/20) provides an exemption from the obligation for payment of the monthly deposits on the profit tax for the months' March, April and May 2020 for the taxpayers which fulfil the required criteria specified in the Decree;

(ii) the Decree with legal force on the application of the Law on personal income tax during a state of emergency which entered into force on 26 March 2020 (Official Gazette of the Republic of North Macedonia no.79/20) provides personal income taxpayers who earn income from self-employment and who have met the criteria specified in the Decree to be exempt from paying monthly deposits on the personal income tax for the months March, April and May 2020; and

(iii) The Decree with legal force on the application of the Law on value-added tax during a state of emergency which entered into force on 26 March 2020 (Official Gazette of the Republic of North Macedonia no.102/20 and 108/20) prescribes that the

taxpayers may be exempt from payment of VAT for the goods and services provided as a donation to a budget user for the aid of the implications of COVID-19, if they acquire a written confirmation from the budget user - beneficiary of the donation, under the relevant laws and bylaws. Additionally, the deadlines for submitting the tax report for VAT for each tax period have been extended.

FOREIGN INVESTMENTS

The “corona legislation” does not affect foreign investment protection in the Republic of North Macedonia.

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PUERTO RICO

O'NEILL & BORGES LLC

INTRODUCTION

Below is a summary of the precautionary measures implemented by the Puerto Rico Government during the COVID19 pandemic. Please note that most of these measures have been directed at maintaining business operations and economic stability, while prioritizing health protocols in an effort to contain the spread of the coronavirus, also known as COVID19.

A. PUERTO RICO GOVERNMENT MEASURES DURING COVID-19 EMERGENCY

1. General Overview

On March 12, 2020, the Governor of Puerto Rico, Wanda Vázquez Garced, declared a state of emergency due to the novel pandemic of the coronavirus, also known as "COVID-19". Following the declaration, on March 15, 2020, the Governor issued Executive Order 2020-023 ("EO2020-23" or the "Order"), establishing several lockdown measures to avoid infection and various guidelines for only essential businesses to operate during the lockdown. Since then, the government and its agencies, have issued several executive orders ("EO 2020-029", "EO 2020-029", "EO 2020-033", and the most recent one, "EO 2020-038", all together the "Orders") and circular letters from every major agency, updating health, social distancing, and business operations guidelines during a two (2) month span.

According to the Orders, businesses engaged in the retail sale of food, including prepared foods, or dedicated to wholesale or distribution of food, medicines or medical equipment, pharmacies, supermarkets, gas stations, banking or financial institutions, nursing homes, or those that are related to the chain distribution of food, medications, medical supplies, or fuel, are exempted from the Order's restrictions.

On May 1, 2020, Governor Vázquez Garced issued the latest executive order ("EO 2020-038"), extending the previously mandated lockdown and citizen curfew, to be effective from May 4, 2020 until May 25, 2020; expanded the business sectors that may operate, and establishing additional guidelines for businesses and workplace protection to address the COVID19 pandemic.

2. Business Lockdown - Businesses Exempted

The following businesses are exempt from the lockdown provisions, issued under the Governor's executive orders:

- Retail sale of food, exclusively through carry-out or delivery, including prepared food, wholesale, supermarkets and those related to food distribution chains including animal feed.
- Medical drugs, equipment, and its distribution chain.
- Gas stations and their distribution chains.
- Banking or Financial Institutions;
- Organizations that provide basic needs for economically disadvantage populations.

The Orders also empowers the heads of the executive agencies of the Government of Puerto Rico to issue additional guidelines to further regulate provisions under the Orders, with the approval of the Governor. Also, to identify any additional services or activities not expressly covered under the Orders, as an exception, that may be deemed as an essential service, for approval by the Governor's Chief of Staff, who will have discretion to authorize such activity or service.

B. ENACTED LEGISLATION DURING COVID19 EMERGENCY

The Puerto Rico Senate approved on March 24, 2020, Joint Resolution No. 493 ("JR 493") to ratify the relief measures announced by the Governor of Puerto Rico, in connection with the COVID19 emergency and business lockdown situation. The announced $787,000,000 stimulus package includes the following:

1. Cash incentives and bonuses

- $500 cash incentive to self-employed individuals.
- $1,500 cash incentive to small and mid-size businesses that have ceased operations due to the COVID-19 emergency, with priority to businesses with fifty employees or less that do not qualify for federal assistance.
- $4,000 bonus to nurses in the public and private health systems; $2,500 to health technicians who support their work.
- Contribution of up to $4,000 for emergency response personnel and up to $3,500 for police officers, firefighters, correctional officers, among others.

2. Appropriation of funds

- $240,000,000 allocated for the purchase of tablets, software, and training for approximately 325,000 teachers, students and directors of the Department of Education, to promote online education, and for the purchase of goods and services related to public health.
- $30,000,000 allocated for the purchase of equipment by public hospitals for COVID-19 response.
- $20,000,000 allocated to the Correction and Rehabilitation Department and to the Department of Public Safety (Police Department) for the purchase of equipment and for any other necessary expense.
- $50,000,000 allocated to municipalities to cover losses suffered in connection with this emergency.

3. Unemployment benefits and government services

- Increase in the unemployment benefits starting July 1st, 2020.
- Water and electricity service suspension prohibited during the emergency.
- No toll charges during emergency.

4. Tax related relief

The Secretary of the Treasury is authorized to postpone the due date for payment of any tax as long as such extension is applied uniformly among taxpayers, and to exclude from gross income any compensation by the federal or state governments to persons affected by the emergency. In addition, the JR 493 authorizes the following:

- Extension to pay income taxes to July 15, 2020.
- The Senate orders all agencies, public corporations and instrumentalities of the Executive Branch, including municipalities to take any necessary action to execute the above measures.
- Suspension of sales and use tax collections at ports and in the resale supply for three months.
- Suspension of the 10% withholding requirement with respect to services rendered.
- Waiver of penalties for failure to remit sales taxes on a biweekly basis when otherwise required.
- Waiver of penalties for failure to remit first estimated tax installments.

Note that the tax payment and filing extensions and benefits part of this stimulus package have been formally issued by the Puerto Rico Treasury Department in AD 20-09 and AD 20-10.

On April 9, 2020, Governor Vázquez Garced signed Act No. 37-2020 (“Act 37”) which grants a special paid leave of five (5) working days for private sector non-exempt employees who suffer, or are suspected of suffering, from COVID-19 or any other sickness that has resulted in the declaration of emergency by the Governor or Secretary of Health.

Under Act 37, covered employees affected (or suspected of being affected) by COVID19 or a sickness recognized by a “State of Emergency”, are entitled to use all of their accrued vacation and sick leave days, as well as any other paid leave or benefit the employee may be eligible to receive. If, upon exhausting all these leaves, the employee continues to be afflicted with a covered sickness, the employee will then be entitled to this emergency paid leave of up to five (5) working days to cover his/her sickness-related absences.

C. PUERTO RICO DEPARTMENT OF TREASURY

The Puerto Rico Treasury Department issued Internal Revenue Circular Letter No. 20-22 and No. 20-23 establishing guidelines for qualified relief payments and special

distributions made from a Retirement Plan or an IRA to cover qualified expenses due to the State of Emergency and curfew declared by the Governor of Puerto Rico as a result of COVID-19 pandemic.

Under CL 20-22, payments made to employees or independent contractors due to the State of Emergency will be deemed Qualified Relief Payments, as established in CC RI 20-08 ("Qualified Relief Payments"). Qualified Relief Payments also include relief payments made by private sector employers to non-exempt employees who have not worked during the lockdown period.

D. DEPARTMENT OF ECONOMIC DEVELOPMENT AND COMMERCE

Pursuant to the Orders, the Department of Economic Development and Commerce ("DDEC", by its Spanish acronym), has issued various Circular Letters, establishing additional guidelines and providing interpretation to the Orders provisions. On May 6, 2020, the DDEC issued Circular Letter 2020-08 ("CL 2020-08" or "Circular"), establishing several guidelines and exceptions for the closing of all businesses in Puerto Rico during the Lockdown period.

Business Sectors Exempted from Lockdown:

1. *Health Sector*

Includes businesses dedicated to the production, sale or rendering of services related to medicines, medical equipment or supplies, medical care services and related supply chain distribution operations, including:

- Pharmaceutical, medical device and biotechnology operations
- Manufacture of medical supplies
- Manufacture and sale of cleaning products, disinfectants and personal protective equipment necessary to deal with the COVID-19 crisis
- Hospitals, emergency rooms, clinical laboratories
- Medical services clinics and medical centers
- Medicinal cannabis facilities
- Blood banks
- Pharmacies (there are no longer restrictions on products that could be sold on Sundays)
- Health insurance companies
- Elderly-Care centers
- Veterinary clinics (by appointment only)

- Primary and specialist physicians are encouraged to continue to use the telemedicine method, face-to-face visits will be allowed by appointment only.
- Dental offices (to attend emergencies and by appointment only)
- Optometrist offices (by appointment only)

2. *Financial Institutions*

- Banks, credit unions and other financial institutions for deposits, withdrawals and payments.
- Pawn shops (limited to receipt of goods as a pawn and payment of debts).
- Mortgage banks and other lending entities (only for loan closings, by appointment only)

3. *Textile Industry*

- Businesses that manufacture uniforms, clothing or components for the Department of Defense may operate as long as they comply with OSHA protocols for COVID. Any textile business that manufactures personal protective equipment may operate as long as they comply with OSHA protocols.

4. *Supply chains relative to exempted goods and services*

- Companies that provide goods or services to the sectors exempted from closure, limiting their operations to supplying such supplies
- Supply of articles for the sectors exempted from closure
- Logistics and transport: customs brokers, sea and land cargo consolidation service, warehousing and distribution services to third parties, and the distribution of detergents, sanitizers, and hygiene and cleaning products
- Manufacture of electronic appliances and articles, including printer ink
- Fire prevention design, sale, and installation services
- Sign services to sectors exempted from closure
- Armory services for the security sector (police, security agencies, and federal security)
- Employment agencies operating as call centers
- Sale, installation, repair, and maintenance of energy production systems based on solar energy.

Safeguards for citizens visiting Exempt Businesses

Any person visiting an exempt business establishment under the Order must

- cover their mouth and nose with a mask;
- maintain 6 feet distance from other people; and
- Only 1 person per household may visit establishments, unless assistance is required.
- Private commercial establishments must:
- ensure that employees and people who visit their establishments wear protective masks
- provide mechanisms for disinfecting hands
- ensure that people maintain 6 feet of separation
- for supermarkets and pharmacies, offer preferential period of time for senior citizens to visit.
- As possible, businesses must give preference to people who work in hospitals, laboratories, or in law enforcement.

Rules for Shareholder Meetings of Corporations

Corporations may notify a change of time or location of shareholder meetings via e-mail, press release, radio, newspaper, and/or phone. In the case of public corporations, by filing a notification with the SEC and issuing a press release, including posting a notice in their website.

Private commercial establishments must:

- Ensure that each employee, before beginning their work and periodically, washes their hands with soap and water or use hand sanitizer. Additionally, employees must disinfect their workstations upon arrival and after completing their shifts
- Ensure that employees and people who visit their establishments wear protective masks
- Provide mechanisms for disinfecting hands
- Ensure that people maintain 6 feet of separation
- For supermarkets and pharmacies, offer preferential period of time for senior citizens to visit.

Manufacturing and Construction Sector Authorization

Starting May 11, 2020, the construction and manufacture sectors are authorized for all exempt business, as long as strict safety protocols are implemented to mitigate contact and protect the health of all workers against COVID19. It will be required that construction and manufacture workers are provided with a training on the new safety protocols to prevent contagion. In addition, construction is authorized in nonexempt businesses and locations, as long as it is to prevent contact of COVID19 by the time they begin

operations. The supply of materials for the construction sector is also authorized, including the distribution of cement and related products.

E. DEPARTMENT OF LABOR

EO 2020-038 requires those businesses that have been allowed to reopen to immediately design and adopt a COVID19 safety and hygiene protocol as a condition for going back to business. All employers must self-certify to the Puerto Rico Department of Labor and Human Resources ("PRDOL") the implementation of a protocol that follows PRDOL requirements and must such protocol with the PRDOL.

Contagion Risk Management Protocols in the Workplace

Each employer in the exempt sectors must prepare a Contagion Risk Management Protocol based on OSHA and CDC guidelines. The Protocol shall be submitted to the Department of Labor and Human Resources prior to begin operations. Employers must limit the number of employees in common areas during work hours. This includes managerial, administrative and support personnel. No employer may reinitiate work without providing safety gear to their employees. Safety protocols based on those issued by OSHA must be in place.

PRDOL CL 2020-03 establishes, for non-union employers, twenty-one (21) requirements that safety and hygiene protocols must meet to comply with the Order. Consistent with the Order, the PRDOL Circular requires completion of a self-certification form issued by the PRDOL which must be filed with the PRDOL with a copy of the safety protocol. This filing must be done as a prerequisite for reopening operations. As to businesses that had been allowed to reopen pursuant to prior Orders, the Circular states that they may continue operation without interruption, but must file the self-certification form with a copy of the protocol as soon as possible. Among the 21 requirements, we highlight the following:

- The safety protocol must be in writing, specific to the employer and its worksite(s) and contemplate the tasks performed in the worksite(s), its physical structure and the number of employees that work at each worksite;
- Include recommendations issued by local, national and national health agencies to prevent the spread of COVID-19;
- Detail procedures for monitoring employees prior entry to the workplace;
- Establishes the maximum number of employees, clients and visitors that are allowed in the worksite per day and work shift;
- Describe cleaning and disinfection protocols for the worksite, and the frequency of cleaning and disinfection of the work areas; and
- Detail which personal protective equipment (PPE) will be required for employees, which should be provided by the employer free of cost.

F. GENERAL MATTERS IN PUERTO RICO LAW

Implications of Force Majeure in a Contractual Obligation

Article 1058 of the Puerto Rico Civil Code provides that “[n]o one shall be liable for events which could not be foreseen, or which having been foreseen were inevitable, with the exception of the cases expressly mentioned in the law or those in which the obligation so declares.” The Supreme Court of Puerto Rico expressed that a natural phenomenon does not always exempt the debtor of an obligation from liability on the pretext of being a fortuitous event or force majeure. *Angel Daniel Rivera v. Caribbean Home Construction Corporation*, 100 P.R.R. 105 (1971).

Furthermore, the Supreme Court continues, stating that determining whether a natural phenomenon constitutes a fortuitous event or force majeure, which exempts the debtor of an obligation from liability, it is necessary to consider the other attendant circumstances in each case, as for example, the frequent or probable character of the phenomenon, or on the contrary, its unexpected or unusual character; whether the measures advised by prudence and science to prevent the damage were taken, or whether they were not taken. *Rivera. v. CHC Corp.*, 100 P.R.R. 105 (1971).

Data Protection in Puerto Rico

In order to provide citizens in Puerto Rico with a tool to protect the integrity of their personal information and to enable citizens to decide with whom they do and who not to engage in business relationships over the Internet, Puerto Rico’s Legislative Assembly, on January 24, 2012, passed the Public Privacy Notice Act (“Act 39-2012”), as amended.

Act 39-2012 is passed to prevent, among others, citizens from being victims of identity theft when conducting business transactions over the Internet. The law requires that any operator of a website notify its users of its privacy policy in a clear, concise, conspicuous and unambiguous manner in order to let them know, among others, the type of personal information it collects and/or retains when accessing the website; (ii) with whom you share the personal information collected and/or retained; and (iii) the methods adopted to make changes to the Privacy Policy and to notify their users.

The Secretary of the Puerto Rico Department of Consumer Affairs ("DACO", for its spanish acronym), a government entity created to protect and defend consumer rights, promulgated the *Regulations to Implement the Publication of the Privacy Policy in the Handling of Private and Personal Data of Citizens as Collected by Merchants in Puerto Rico* ("Regulation 8568") to implement the provisions of Act 39-2012. Regulation 8568 applies to all trades registered in Puerto Rico and/or doing business in Puerto Rico and in doing so collect information from Puerto Rico residents over the Internet. According to Regulation 8568, incurring the practice of disclosing a privacy policy that does not correspond to the reality of the practices of handling personal information is subject to various administrative fines.

Applicability of U.S. (Federal) Law

In addition, to the above-mentioned local statutes and regulations, please note that because of Puerto Rico’s status as a territory of the United States of America, federal legislation and regulations, such as, the *Coronavirus Aid, Relief and Economic Security*

Act[58], also known as the "CARES Act", applies to all citizens of Puerto Rico. Furthermore, the CARES Act provides small businesses in Puerto Rico to benefit from federal programs, such as, the Paycheck Protection Program ("PPP") and Economic Injury Disaster Loan Emergency Advance ("EIDLEA"), that have been enacted to minimize the economic struggles of these businesses due to the COVID19 emergency.

G. CONCLUSION.

The above-mentioned summary discusses the most relevant measures implemented by the Government of Puerto Rico during the COVID19 pandemic as well as the applicability of federal law due to the Island's citizens.

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[58] *See, 15 U.S.C. §9001 et seq.*

RUSSIA (I)

GORODISSKY & PARTNERS

CONTRACT LAW & FORCE MAJEURE

According to Article 401 of the RCC, unless otherwise provided by law or the contract, a person shall not be liable for non-performance or undue performance of its obligations assumed in the course of its entrepreneurial activities, if the performance of these obligations is impossible due to an "irresistible force", i.e. an extraordinary and unavoidable event in the given circumstances (also known in practice as the "**force majeure**"). Such circumstances do not include, in particular, a breach of obligations on the side of the debtor's counterparties, the absence of goods on the market necessary for execution (e.g. supply), or the lack of necessary monetary funds[59].

The Supreme Court of the Russian Federation (the "**Supreme Court**") has provided further interpretation and guidance to the concept of "force majeure" by clarifying that by virtue of Article 401 (3) of the Russian Civil Code, in order to recognize an event as a force majeure circumstance, it must be extraordinary, inevitable under the given conditions and external in relation to the debtor's activity[60].

The Supreme Court has also noted that the emergency requirement implies the exclusivity of the circumstance under consideration, the occurrence of which is not usual under specific conditions. Unless otherwise provided by law, a circumstance shall be deemed inevitable if any participant in the civil commerce carrying out activities similar to the debtor could not avoid the onset of this circumstance or its consequences, i.e. one of the characteristics of force majeure circumstances (along with emergency and inevitability) is its relative nature. Force majeure circumstances cannot be recognized, the occurrence of which depended on the will or actions of the party to the obligation, for example, the debtor lacking the necessary funds, breach of obligations by its counterparties, illegal actions of its representatives.

From the given explanations, it follows that recognition of the spread of COVID-19 as force majeure cannot be universal for all categories of debtors, regardless of the type of their activity, the conditions for its implementation, including the region in which the business operates, due to which the existence of force majeure event should be established taking into account the circumstances of a particular case (including the time period for fulfillment of the obligation, the nature of the unfulfilled obligation, reasonableness and good faith the debtor's actions, etc.).

In relation to the rules of Article 401 of the Civil Code of the Russian Federation, the circumstances caused by the threat of the spread of COVID-19, as well as measures taken by state authorities and local self-government to limit its distribution, in particular, the establishment of mandatory rules of conduct when introducing a high alert or emergency, a ban on the movement of vehicles, restriction of the movement of individuals, suspension of enterprises and institutions, cancellation and rescheduling of mass events, the introduction of a regime of self-isolation of citizens, etc., may be recognized as force

[59] *Article 401 (3) of the Russian Civil Code*

[60] *Section 8 of the Resolution of the Plenum of the Supreme Court of March 24, 2016 No. 7 "On the Application by Courts of Certain Provisions of the Civil Code of the Russian Federation on Liability for Breach of Obligations",*

majeure, if it is established that they comply with the above criteria for such circumstances and the nexus between these circumstances and the default[61].

Therefore, to summarize and to be excused for the non-performance of obligation under a contract due to COVID-19, a party needs to prove that (a) the circumstances in question are extraordinary and beyond the control of the parties, and (b) that the non-performance of the obligation is a direct result of these circumstances.

By the way, the official Decree No. 20-UM of the Mayor of Moscow dated 14 March 2020 "On Introduction of the High Alert Regime" (as amended) classifies the spread of COVID-19 as a force majeure event. The Chamber of Commerce and Industry of the Russian Federation has also declared that the measures taken against COVID-19 (not the pandemic itself) may be deemed as such circumstance. Therefore, Russian Government considers COVID-19 as force majeure.

In addition, Russian law generally permits parties to designate in the contract a list of events or circumstances, the occurrence of which could be regarded as grounds for releasing each party from liability for breach of the contract (or otherwise change the grounds for liability of the parties). In other words, parties are entitled to negotiate and agree on various force majeure issues.

In the light of the above, COVID-19 and all related consequences, depending on certain circumstances and mentioned criteria, can fall under the concept of "force majeure" event under the Russian law. Otherwise, epidemics and prohibitive measures of certain states and agencies, as well as other circumstances, which are beyond the control of parties, can serve as grounds for releasing the party from liability for non-performance of its obligations by virtue of contract (e.g. supply, distribution or franchise agreement). Of course, when proving the force majeure event, especially in cross-border deals, a relevant certificate of force majeure, including the one issued by the Russian Chamber of Commerce and Industry will highly be recommended as documentary evidence.

The Russian Chamber of Commerce and Industry (and its territorial divisions) are empowered to issue the official certificates of force majeure. Therefore, COVID-19-related certificates are highly expected at this time as evidence of force majeure that will apparently affect the performance of contractual obligations during this very difficult period.

CONTRACT PERFORMANCE – DELIVERY OBLIGATIONS IN SUPPLY CONTRACTS

Delayed delivery because of COVID-19 can be explained and discussed. The party may seek for a relief of liability for breach of a contract by relying on force majeure event (COVID-19) during the period of the same. However, the occurrence of the force majeure event does not fully release the party (debtor) from its contractual obligation to supply the contracted goods, if the performance of such obligation will be feasible after the current epidemic situation terminates. Therefore, if the COVID-19 – being an event of “irresistible force” (as noted above) – constitutes a temporary impediment for the performance of the party’s obligation, the performance will be suspended (without any liability or breach) only for the period of such event, and will be revived immediately upon the termination of such event. As a result, under such circumstances, delayed delivery may be cured and accepted, especially if the contract has a special reference to a pandemic or epidemic situation, or if the court finds COVID-19 as force majeure in the course of court proceedings. Of course, the party in delay must act in good faith. At the same time, the non-defaulting party has the right to repudiate from the contract if, as a result of the delay, it is no longer interested in receiving the benefit under the contract,

[61] See Question and Comment 7 of the “Review of selected issues of judicial practice related to the application of legislation and measures to counteract the spread of the new coronavirus infection (COVID-19) No. 1 in the Russian Federation” (Approved by the Presidium of the Supreme Court of the Russian Federation on 21 April 2020)

provided that the defaulting party shall not be liable to the non-defaulting party for any losses caused by the delay in performing the obligations due to the occurrence of the force majeure circumstances[62].

CONTRACT PERFORMANCE – CLOSING THE UNIT; PRODUCT SEASONING ISSUES

Article 523 of the Russian Civil Code lists certain cases when unilateral repudiation from a supply contract is possible on the side of a supplier and customer. Changing the needs in the ordered goods as well as the change of strategic decision to close business, or other "seasoned goods" circumstances, are not specified by the mentioned Article of the Russian Civil Code.

Again, the COVID-19 – being an event of "irresistible force" – shall constitute a temporary impediment for the performance of the party's obligation, and the performance will be suspended (without any liability or breach) only for the period of such event, after which will be revived immediately upon the termination of such event. Therefore, a customer must accept the performance made by the supplier immediately after the end of COVID-19. Simple or strategic decision of the customer with regard to the business or the shop during the epidemic shall not cure the situation.

At the same time, under the Russian law, contractual obligations of parties may be terminated due to impossibility of their performance (Article 416 of the Russian Civil Code), or on the basis of the act of state agency (Article 417 of the Russian Civil Code). More specifically, termination of the relevant contractual obligations under Article 416 of the Russian Civil Code may take place if, in connection with certain circumstances arising after execution of the contract, there is an actual, objective and permanent impossibility of performance of those obligations[63]. Termination of obligations by virtue of Article 417 of the Russian Civil Code is possible if state or local authorities adopt acts or measures that make it impossible to perform obligations under a contract. Of course, these circumstances must be proved documentarily, not just declared.

Therefore, under these specific rules of law, "seasoning" can be explained and allow the customer to repudiate from the contract (on this part), as a result of COVID-19. But, simple or strategic decision of the customer with regard to the business or the shop during the pandemic situation shall not be cured through Articles 416 and 417 of the Russian Civil Code.

CONTRACT PERFORMANCE – MINIMUM SALES OBLIGATIONS IN DISTRIBUTORSHIP

Minimum sales and minimum quantities can be essential for the parties in certain instances when they enter into the deal. Due to COVID-19 – that may also be regarded as "material change of circumstances" - the agreed minimum amounts can hardly be reached, or not reached at all. In this case, parties may rely on the provisions of Article 451 of the Russian Civil Code.

Unlike the situations above, in case of a "material change of circumstances", parties may still have an opportunity to perform their obligations under a contract. According to Article 451(1) of the Russian Civil Code, a material change of circumstances upon which the parties have relied when executing the contract is a ground for amending or terminating the relevant contract. A change of circumstances is regarded as material when the parties' circumstances have changed in such a way that the parties would not have

[62] *Section 9 of the Resolution of the Plenum of the Supreme Court of March 24, 2016 No. 7 "On the Application by Courts of Certain Provisions of the Civil Code of the Russian Federation on Liability for Breach of Obligations"*

[63] *Contract and Liability Law (General Part): Article-by-Article Commentary to Articles 307 - 453 of the Russian Civil Code // edited by A.G. Karapetov, "M-Logos", 2017*

entered into the contract at all, or would have entered into it on significantly different terms, had they been able to reasonably foresee the change at issue.

Unless otherwise provided by the contract and does not follow from its essence, such circumstances that the parties could not have foreseen when concluding contracts may serve as grounds for amending and terminating the contracts on the basis of Article 451 of the Russian Civil Code, if the contract had not been concluded under these circumstances or would have been concluded under significantly different conditions. Moreover, under Article 451 (4) of the Russian Civil Code, a change in the contract due to a material change of circumstances at the request of one of the parties is possible only in exceptional cases when the termination of the contract is contrary to public interests or will entail damages to the parties significantly exceeding the costs required to perform the contract on the conditions as amended by the court. When satisfying a claim to amend the terms of the contract, courts must indicate what public interests contradict the termination of the contract or justify the significant damages to the parties from the termination of the contract[64].

Therefore, Russian law and judicial practice makes it generally possible that measures taken in connection with the spread of COVID-19 could make the fulfilment of contractual obligations so burdensome for the parties that they will be recognized by the court as "material change of circumstances". This means that parties will be able, for example, to rely on these grounds for the purpose of modifying the relevant contract in accordance with Article 451 of the Russian Civil Code.

CONTRACT PERFORMANCE – PAYMENTS OBLIGATION IN FRANCHISING CONTRACTS

As noted above, franchisees can be just suspended from payment of royalties during the period of COVID-19. Complete release of their liability to pay royalties under the concluded contract will not be possible. Of course, it is necessary to review and rely on the concrete royalty basis, payment period and method of calculation of the same to see whether the period of COVID-19 really has any negative impact on the deal. For example, annual fixed royalties to be paid at the end of the year may still be paid at the end of the year, if pandemic situation is terminated in summer, while monthly payments dependent on net sales can be "freezed" obviously. Minimum royalties or other fees can be amended pursuant to the provisions of Article 451 of the Russian Civil Code due to material change of circumstances, as noted above.

CONTRACT PERFORMANCE – ASPECTS OF COMMERCIAL LEASE

Russian Government decided to support tenants and lessees during these uncertain times and provided "rent holidays" to the leasing businesses. More specifically, according to the recently issued Resolution of the Russian Government No. 439 dated April 3, 2020 "On requirements to conditions and periods of postponement of rent payments under real estate leases (the "**Resolution**") a tenant is now entitled to postpone rent payments in case the following conditions are met: (a) lease is made in relation to any real estate, except for residential one; (b) lease is made before the launch by the relevant Russian region of the regime of high-alert or extreme situation (the "**Regime**"); and (c) tenant's activity falls under the list of the most injured industries due to the spread of Covid-19. Rent payments may be postponed from the date of introduction of the Regime by the respective Russian region until 1 October 2020. Upon termination of the Regime and until 1 October 2020 the tenant may postpone 50% of rent payments. The parties may decrease the amount of rent, which should be postponed under the additional (amendment)

[64] See Question and Comment 8 of the "Review of selected issues of judicial practice related to the application of legislation and measures to counteract the spread of the new coronavirus infection (COVID-19) No. 1 in the Russian Federation" (Approved by the Presidium of the Supreme Court of the Russian Federation on 21 April 2020)

agreement. Operating expenses and other utility payments may not be postponed even if they are included in the rent (and not provided separately), except when the landlord is released from such payments under the regulations of the respective Russian region. The tenant who meets the criteria mentioned above shall approach the landlord and ask it to sign the lease amendment agreement. The amendment agreement should be concluded within 30 days. In case of a long-term lease the amendment agreement must also be registered. Finally, landlords are prohibited to ask for any penalties, interests or any other payments, including those already provided for in the lease agreements.

CONCLUSION AND RECOMMENDATIONS

From the point of view of practical and general recommendations for the contractual parties affected by COVID-19, the following legal actions can be recommended at this point: (1) reviewing the exact contractual terms, including force majeure clauses, and doing the appropriate legal risk analysis; (2) confirming with lawyers that COVID-19 is the force majeure event and securing a legal opinion, as well as additional pieces of evidence (e.g. obtaining an official certificate from Russian Chamber of Commerce and Industry); (3) evaluating a list of operable measures that can be made and discussed with the other side in connection with the pandemic situation; (4) notifying the other side and establishing communications on the issue; (5) considering the amendment or termination (as applicable) of the underlying contract; (6) proceeding to execution of amendment or termination and registration formalities (if needed). Otherwise, the parties will have to assess the possibility of going to the court.

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RUSSIA (II)

ASTEY

INTRODUCTION

Russia has been facing the Covid-19 epidemic since March 2020, and the country is learning from the experience of combating the epidemic in China, Italy, Spain and other countries. The preventive measures and the increase in testing and treatment capacities appear to have kept the death rate to a minimum so far.

Despite the authorities' refusal to declare a state of emergency, the government provided the heads of regions with special powers and funding, thereby allowing a diversification of the response according to the gravity of the local situation.

The following is an overview of the key changes in various branches of law in Russia, with a focus on the rules applicable in Moscow and the Moscow region.

EMERGENCY MEASURES

The main regulatory framework for the emergency situations is the Federal Law "On the Protection of the Population and Territories from Natural and Technogenic Emergency Situations" No. 68 dated December 21, 1994 (hereinafter the "Law on Emergency Situations"). This law provides for two regimes: the emergency situation regime and the high alert regime.

Since the outbreak of Covid-19, the Russian highest authorities, both on the federal level and on the level of the subjects of the Russian Federation, had to face this new challenge and take certain emergency measures:

1. The Law on Emergency Situations was amended so that the definition of an emergency situation would cover the spread of a disease constituting a danger to public health.
2. The powers vested in the Russian government were enlarged. The Government is now entitled to introduce a high alert or an emergency situation regime on the whole territory of Russia, or on a part of it, as well as to impose mandatory rules to individuals and legal entities in various spheres, such as bankruptcy, compulsory health insurance, restrictions on the wholesale and retail trade of medical products, licensing, accreditation, certification, state registration, taxes, etc. during the high alert and emergency situation regimes.
3. The powers of the executive bodies of the subjects of the Russian Federation were extended likewise. Moreover, they were granted a possibility to impose additional mandatory rules during the high alert and emergency situation regimes in comparison to the federal ones.
4. The high alert regime was launched in every subject of the Russian Federation in March 2020.
5. A series of presidential decrees (Decree No. 206 dated March 25, 2020, Decree No. 239 dated April 02, 2020 and Decree No. 294 dated April 28, 2020,), ordered the

period from March 31 to April 30, 2020 and from May 6 to May 8, 2020 to be non-work days with pay (see our Labour Law section).

6. Under the Russian Government Resolutions No. 635-r dated March 16, 2020 and No. 763-r dated March 27, 2020, the entry and exit through automobile, railway, pedestrian, river and mixed checkpoints across the state border of Russia were restricted with several exceptions, such as, for example, diplomats and members of their families, truck drivers of international traffic, crews of river vessels, train and locomotive brigades of international rail traffic, Russian citizens needing to leave the country due to the death of a close relative, Russian military personnel and members of their family, Russian citizens who also have a citizenship, residence permit or other valid document confirming the right to permanent residence in a foreign country, for a single exit from Russia to their habitual residence, foreign citizens who hold Russian visas, which were issued to them in connection with the death of their close relative, foreign citizens and stateless persons permanently residing in Russia, transit passengers, etc.
7. On March 26, 2020, the Russian government instructed the Federal Air Transport Agency to stop the regular and charter flights between Russia and foreign countries, with the exception of the flights operated in order to repatriate Russian citizens from foreign countries, in connection with the spread of Covid-19, as well as the flights operated under individual decisions of the Russian government.
8. The Russian government temporarily suspended the work of sanatoriums, resort facilities and public catering places. The mass sports and cultural events were cancelled as well. People must maintain a distance of not less than 1 meter from each other in public places. Work conditions of state bodies had to be adapted accordingly. For example, the tax authorities suspended the personal reception of citizens from March 30, 2020 until further notice. The taxpayers are encouraged to settle their issues via online services and consult the tax authorities by calling the Universal Call Centre of the Federal Tax Service.
9. The criminal and administrative liability for violation of the legislation on securing the sanitary and epidemiological well-being of the population were made stricter. A new article 20.6.1 was introduced into the federal Code of Administrative Offenses, which provides for administrative penalties in cases of non-compliance with the rules of conduct introduced during the high alert and emergency situation regimes, while new part 4 of article 14.4.2 of this code sets out an administrative liability for the sale of medications at inflated prices. Moreover, the federal Criminal Code and the Code of Administrative Offenses were supplemented by provisions on the dissemination of fake news about epidemics on the Internet or in the media.
10. In the sphere of economy and business, the Russian government established a list of the sectors “particularly affected” by Covid-19. This list specifies 11 economic sectors such as air transportation, airport activities, automobile transportation, culture, leisure and entertainment, fitness and sports activities, travel agencies and tourism organizations, food and lodging industry, education organizations, organization of conferences and exhibitions, household services (e.g. repair, cleaning, dry cleaning, hairdressing and beauty salons), medical organizations (in particular, dental practice cabinets) and retail sale of non-food goods, while each sector includes specific types of economic activities.

LABOUR LAW

Non-work days. A regime of non-work days was introduced by the Russian President's Decrees No 206, 239 and 294 for the period from March 30 to April 30, 2020 and from May 6 to May 8, 2020. Since the Russian Labour Code does not feature the concept of

non-work days as such, the Russian Ministry of Labour had to specify that this regime does not mean days-off or holidays. During non-work days, all companies that do not fall under certain exceptions must not have their employees in their places of work. The companies whose employees work remotely (from home) are allowed to continue their activities. However, salaries for this period should be paid in full. The Ministry of Labour also specified that non-work days cannot be used as a legal basis for reducing salaries and redundancy layoffs. Grounds for dismissal on the employer's initiative may only be associated with the employee's unsatisfactory performance of duties or violation of labour discipline.

Remote work or telecommuting conditions. The Ministry of Labour issued *Recommendations* to be followed while organising remote work. Among other things, it specifies the cases in which it may be necessary to amend the labour contract. The employer is neither obliged to provide employees with equipment and software, nor compensate the employee for communication costs or Internet. These issues may, however, be settled by mutual consent. At the same time, according to these Recommendations Ministry of Labour, the employer should create conditions for remote work by ensuring appropriate means of communication and methods of control.

Unemployed citizens. The Russian Government Resolution No. 460 introduced a temporary electronic registration service for unemployed citizens. Under the Government Resolution No. 346 the dismissed workers will be entitled to an unemployment compensation for the period from April to June, 2020 in the amount of the national minimum wage (12,130 rubles). This measure concerns only those who were recognized unemployed since March 1, 2020 in accordance with the established procedure, with the exception of cases of dismissal for violation of labour discipline or other breaches.

Foreign employees. According to the Presidential Decree No. 274 from March 15 to June 15, 2020, employers have the right to hire foreign citizens who are staying on the territory of Russia during the pandemic, even if, under normal conditions, they would not be authorized to work.

PRIVACY

Temperature measurement. Under the Russian Privacy law "On personal data" No. 152-FZ (Privacy law), the health data is a sensitive category of personal data, which can be collected only upon written consent. However, the Russian Privacy law establishes some cases when consent is not required. One of them is the collection of personal data in order to ensure public safety. On this basis, the measuring of passengers' temperatures upon their arrival in Russia or while entering their work premises is considered not to violate the rules for collecting personal data.

The Privacy law establishes that this special category of personal data can be processed without a written consent in accordance with the labour legislation. Thus, it is allowed to collect employees' health data without their consent in order to establish whether an employee is able to perform their functions. As for the visitors that are not employees, no consent would be necessary, provided they are given clear notice that their temperature will be measured upon entrance to the premises. In this case, the visitors' decision to enter such premises assumes their consent to the collection of health data. the Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications (*Roskomnadz*or) specified that all health data collected must be deleted within one day, since the purpose has been achieved.

Monitoring passengers from countries with an "unfavourable epidemiological situation". Under the law on transport security No.16-FZ the transport operators have always been obliged to transfer the personal data of passengers of domestic and international transportation to a unified state information system in order to ensure the

transport safety. Such personal data includes name, date of birth, number of identification document, departure point, destination, date of trip, citizenship. According to the Privacy law, written consent from the passenger is not required since such processing of personal data is carried out for the fulfilment of the obligations assigned to the operator by the federal law.

Contact tracing. The Russian Ministry of Communications announced the creation of a tracking system for monitoring violations of the self-isolation regime. The mobile operators must provide the location data of mobile phones. In case of violation of the self-isolation regime, the person will receive a warning by text, and in the case of systematic violations, the operators will transmit data to the law enforcement agencies. Although the Ministry states that the used methods do not violate the Privacy law requirements and that all data is processed anonymously with only the use of a phone number, it remains unclear whether the mobile operators should provide the data of all citizens or only those of certain category and on which legal basis.

CORPORATE LAW

1. Amendments to the Federal Laws on Joint Stock Companies and Limited Liability Companies.

The Federal Law No. 115, dated April 7, 2020 amended the federal laws on joint stock companies and limited liability companies.

The deadlines for annual general meetings of shareholders were extended to September 30, 2020. The joints stock companies were allowed to hold annual and extraordinary general meetings of shareholders by means of absentee voting. In view of this, on the April 3, 2020, the Central Bank of Russia issued an information letter No. IN-06-28/48б, in which it recommended that the joints stock companies hold all general meetings of shareholders by absentee voting (including annual meetings). Meanwhile, such possibility has not been granted to limited liability companies.

Before these amendments, the companies whose net asset value had fallen below the amount of the authorized capital had to either reduce the authorized capital, or to wind up the company. Now, this rule has been suspended until the end of 2020. Additionally, under the introduced amendments, information on the reduction of the net asset value does not need to be included in the annual report of the joint stock companies until the end of 2020.

2. Organization of the work process in the company during the non-work days

Companies exempted from the non-work days regime are defined in Paragraph 2 of the Decree of the Russian President No. 206 dated March 25, 2020, as well as in recommendations of the Ministry of Labour of Russia, dated March 26, 2020. Such companies must comply with the regulations established by the competent central and local authorities.

A company located in Moscow or in the Moscow region is required to submit, through the public services website, a list of the employees who will perform their work remotely, as well as a list of the employees whose presence is necessary on the company's premises and of the employees who carry the diseases specified in the regulations established by the competent authorities of Moscow and the Moscow region. In the latter instance, such

employees should be put on a paid leave. On the basis of the submitted lists, the company will be able to obtain a digital pass for each employee, which will allow them to travel to their place of work if needed.

The company must also comply with the sanitary and epidemiological recommendations, meaning: the provision of the employees with personal protective equipment, an increase in the frequency of premises cleaning and surface treatment, a measurement of the employees' body temperatures prior to admitting them to their workplaces, and ensuring a social distance of not less than 1.5 meters between the employees while they perform their work.

All the compliance measure taken by the companies must be reflected in the employer's internal orders and instructions.

LITIGATION

Following the instructions of the chief medical officer and presidential decrees, the Supreme Court of the Russian Federation and the Council of Judges took a resolution on closing the courts to the public from March 19, 2020. This order with several reservations was extended until May 11.

The judicial system has been virtually paralyzed. Majority of the cases were postponed to a later date, except for urgent and time-sensitive cases, as well as administrative cases for quarantine violation. Despite the high-quality technical equipment, even the commercial courts did not volunteer to organise online hearings and decided to wait until the situation stabilises.

The Supreme Court took the lead on April 21, 2020 and decided six cases using videoconferencing. Considering its positive experience, the Supreme Court immediately recommended courts to use online conferencing services for hearings. In order to obtain a hearing through such means, the parties to a case have to submit an electronic request to the court, alongside scans of an ID and of a power of attorney.

Procedural documents can be submitted via the courts' websites (both commercial and courts of general jurisdiction), by mail or through special boxes installed at the entrances of court buildings.

As the courts continue to work remotely, the Supreme Court announced that «non-work days» do not provide grounds for suspending the procedural terms. Therefore, in order not to lose the right to judicial protection, it is important to continue to interact with Russian courts in a timely manner. The inability to file a claim or other complaint during the quarantine period will have to be proven additionally.

TAX LAW

Tax Law has been affected as follows.

The terms for provision of the tax and accounting reports, which were to be submitted in March - May 2020 (except for the VAT), were extended for all legal entities and sole proprietors for 3 months. For example, the corporate tax return should be submitted not later than on June 29, 2020. The terms for provision of the VAT return were postponed to May 15, 2020.

The term for provision of the personal income tax return 2019 of individuals was extended to July 30, 2020, while the due date for the tax payment is still the same – July 15, 2020.

The due dates for the payment of taxes and insurance premiums, including those for work accidents and occupational diseases, were extended for small and medium sized

businesses operating in the sectors considered as «particularly affected by Covid-19». Thus, the due dates for the payment of the corporate tax, of the tax paid in case of use of simplified taxation system, as well as of the single agricultural tax were postponed for 6 months, while the due date for the payment of the sole proprietors' personal income tax was postponed for 3 months.

From April 1, 2020, the rates of insurance premiums were reduced for the small and medium sized businesses. Such a reduction concerns only the part of the payments made in favour of an individual, which exceeds the national minimum wage established at the beginning of the year (i.e. 12,130 rubles) as estimated at the end of each calendar month. As for the monthly payments made in favour of an individual, which do not exceed the national minimum wage, the standard rates are applied.

The legal entities and sole proprietors operating in the sectors particularly affected by Covid-19 were given a possibility to defer the payment of taxes and insurance premiums (excluding excise taxes and the mining resources extraction tax) or to pay them in instalments without interest. The companies of strategic, systemic and city-forming importance, as well as the companies which sell essential goods or provide essential services are also allowed to request a tax deferral or permission to pay the taxes in instalments, with the exception of excise taxes and the mining resources extraction tax. However, the tax deferral (or the deferral of insurance premiums, where applicable) or the possibility to pay the taxes (or the insurance premiums, where applicable) in instalments can only be granted if any of the following criteria is met:

- decrease in revenues by more than 10 percent;
- decrease in proceeds from sale of goods (works, services) by more than 10 percent;
- decrease in proceeds from sale of goods (works, services) under transactions subject to 0% VAT rate by more than 10 percent;
- loss in accordance with the corporate tax return for the reporting periods in 2020, provided that there was no loss in 2019.

The tax debt recovery measures are suspended until the end of May 2020, unless the tax authorities find that a failure to take debt recovery measures may entail concealment of assets and/or the possibility of commission of other actions, which prevent the tax debt recovery. This measure concerns all legal entities and sole proprietors.

The Russian government imposed a moratorium on tax audits and other control measures conducted by the tax authorities until May 31, 2020. The deadlines for the submission of documents, information and explanations required by the tax authorities from March 01 to May 31, 2020 were also postponed.

The payroll grants received from the federal budget by the small and medium sized businesses operating in the sectors particularly affected by Covid-19 are not subject to these taxes: corporate tax, tax paid in case of use of simplified taxation system, single agricultural tax, VAT. The expenses paid out of such grants are not taken into account for the purposes of taxation.

The costs of disinfection of premises and purchase of instruments, laboratory equipment, special clothing, other personal and collective protective equipment, necessary for the fulfilment of the mandatory sanitary, epidemiological and hygienic requirements can be accounted as expenditures in relation to the corporate tax, as well as to the tax paid in case of use of simplified taxation system and the single agricultural tax.

The expenses for the purchase of medical products for the diagnosis and/or treatment of Covid-19, as well as for the construction, manufacture, delivery and making such medical products ready for use are taken into account for the purposes of the corporate taxation.

The import and sale of essential medical products (e.g. Covid-19 tests, thermometers, surgical gloves, medical masks, goggles, protective overalls, disposable medical clothing, shoe covers, medications for the treatment of Covid-19, lung ventilators) are VAT exempt, provided that the goods declarations are registered by September 30, 2020, and that the intended purpose of the products and the further free of charge transfer of products to medical facilities are confirmed by documents issued by the competent executive bodies of subjects of the Russian Federation.

FOREIGN INVESTMENTS

At the moment, there are no specific measures in Russia concerning foreign investors during the COVID-19 pandemic. However, the principle of equal treatment of individuals and business entities means that foreign owned companies must comply with same rules and are entitled to benefit from the same support mechanisms where applicable.

For example, if a foreign investor has a company in the Russian Federation that is defined as a small or medium-sized business operating in sectors particularly affected by COVID-19 (paragraph 10 of the Emergency Measures column), and if said company is not in the process of liquidation, has not filed for bankruptcy and no decision has been made to exclude it from the Unified State Register of Legal Entities (USRLE), if its outstanding taxes and fees do not exceed 3,000 rubles, and the total payroll amounts to 90% to that of 2019, then based on the Government Decree no. 576 dated April 24, 2020, such company may apply for a grant in the amount of 12,130 rubles for each employee for the April-May period of 2020.

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SERBIA

ODI LAW

INTRODUCTION

The President of the Republic of Serbia (Serbia) has declared a state of emergency on 15 March 2020 due to COVID-19 pandemic (**State of Emergency Decree**)[65]. The declared state of emergency lasted until 6 May 2020 and resulted in numerous measures preventing the spread of the COVID-19 disease and providing urgent financial support to companies and citizens. Since the state of emergency has been abolished, most restrictive measures ceased to apply enabling individuals and businesses to slowly get back to regular functioning.

EMERGENCY MEASURES

Social distancing measures are mandatory even after abolishment of the state of emergency. Gathering of more than 50 people in public places (indoor or outdoor) is prohibited and all gatherings up to the 50 people shall be conducted with implementation of prescribed prevention measures (social distancing for outdoor gatherings; disinfection and appropriate protective equipment for indoor gatherings).

Most of the businesses activities are back to regular functioning after almost 2 moths of work prohibition for some activities. The following were exempted from the beginning of emergency measures: grocery stores, including the sale of agricultural products on the farm, pharmacy, medical and orthopaedic stores, gardening and agriculture program in stores, agricultural shops, gas stations, banks, post offices, delivery services, newsstands and kiosks for the sale of newspapers and magazines, and other emergency services to ensure public safety and health. Public transportation is active again although with some reduced capacities due to the necessity apply social distancing measures.

Cross-border movement is re-enabled but is restrictive since all those who enter Serbia must have either a certificate of a negative test for COVID 19 disease that is not older than 72 hours or after entering the country must be in self-isolation for 14 days.

Air traffic is in the process of normalization.

CONTRACT LAW

General contract law provision are contained in the Obligations Code[66] and there were no changes with regards to the general contractual relationships.

Regarding loans and leasing, National Bank of Serbia has decided to introduce moratorium on loans and leasing, in order to help its citizens as well as domestic economy. National Bank of Serbia adopted Decision on temporary measures to preserve the stability of the financial system (**Financial Measures Decision**)[67]

[65] Official Gazette of the Republic of Serbia no. 29/20

[66] Official Gazette of the SFRY no.29/78, 39/85, 45/89 and 57/89, Official Gazette of the SRY no.31/93, Official Gazette of Serbia and Montenegro no.1/2003 and Official Gazette of the Republic of Serbia no. 18/2020

[67] Official Gazette of the Republic of Serbia no. 33/20

In the sense of moratorium, the National Bank of Serbia decided to suspend repayment of loans and leasing, as well as all other obligations to a business banks and leasing companies with registered seat in Serbia. Business banks and leasing companies were obliged to offer a moratorium on debt payments to their clients (both, individuals and business clients). The offer had to be announced until 21 March 2020 by posting a notification of such offer on their websites. Within ten days following the notification, borrowers/lessees could refuse the offer, and if they failed to do so within the term of 10 days, it has been considered that they have accepted the offer. Borrowers repaying more loans are entitled to a moratorium on the repayment of installments for all loans.

In order to simplify application of the moratorium as much as possible, National Bank of Serbia has decided to introduce an automatic moratorium offer mechanism, meaning that even if one continues to repay its loan(s) but it did not refuse the offer explicitly, the first time that he/she fails to pay in time, the moratorium shall automatically apply.

It is also important to note that extension period shall last for a period of at least 90 days although every business bank/leasing company is authorized to offer even longer period to its clients.

During the state of emergency declared due to pandemic, the banks did not charge any default interest on past due outstanding receivables.

LABOUR LAW

Labour Law issues, during the state of emergency, were regulated under several acts, primarily Regulation on Organizing the Work during the State of Emergency[68] (**Work Organization Regulation**) and Conclusion on the Use of Annual Leave for 2019[69] (**Annual Leave Conclusion**).

Under Work Organization Regulation, employers were obliged to enable employees to perform work outside the employer's premises (work from home), at all job positions where it is possible to organize such work. An employer whose nature of business activity is such that it is not possible to organize work from home, it was necessary to harmonize its business with the conditions of the state of emergency, namely:

- to organize work in shifts, if it is possible and does not require additional funds;
- to enable holding of all business meetings electronically or by other appropriate means (video link, video call, etc.),
- to postpone business trips in the country and abroad, in accordance with the decision of the competent authority on the ban, i.e. temporary restriction of entry and movement.

Even after abolishment of the state of emergency, the employer is obliged to provide all general, special and extraordinary measures related to the hygienic safety of facilities and persons in order to ensure protection and health of employees.

For employees who are in direct contact with customers or share work space with several people, it is necessary to provide sufficient quantities of protective equipment (face masks, disinfectants, hygienic gloves, etc.).

Besides that, Serbian Government issued recommendations concerning use of the annual leave. Under Annual Leave Conclusion it was recommended to all employers to enable employees who have the obligation to regularly perform work tasks in conditions of

[68] *Official Gazette of the Republic of Serbia no. 29/20*
[69] *Official Gazette of the Republic of Serbia no. 52/20*

emergency, to use unused part of the annual leave for 2019, until 31 December 2020 instead of 30 June 2020 (which is prescribed as general rule).

Another recommendation of the Government concerns wage compensation for the employees who are temporarily absent from work due to a confirmed COVID-19 infection or due to a measure of isolation or self-isolation imposed in connection with the disease, which occurred as a result of direct exposure to risk based on the performance of their duties and tasks (Temporarily Absent Employee). Government issued Conclusion on Wage Compensation for Temporarily Absent Employee[70] recommending to the employers to provide wage compensation in the amount of 100% of the basic salary to the Temporarily Absent Employee for the whole period of absence although the Labour Law prescribes right of the employee on 65% of the basic salary during the period of the absence (except in case of professional disease or injury at work).

In accordance with the Regulation on Fiscal Benefits and Direct Grants to Legal Entities in the Private Sector and Financial Aid to Citizens (**Fiscal Benefits and Direct Grants Regulation**)[71], the State provided financial aid for the employers comprising of:

- amount of minimal net salary in Serbia for March, April and May for each employee employed with full time (or proportional amount for employees employed for a part-time) granted to employers who are systematized as micro, small or medium legal entities;
- amount of 50% of minimal net salary in Serbia for March, April and May for each employee employed with full time (or proportional amount for employees employed for a part-time) granted to employers who are systematized as large legal entities;

Funds shall be paid to the escrow account of the employer, who applied for financial aid, which account is to be opened automatically by the state authorities in business bank in which the employer has its regular business account. Funds from the escrow account can be transferred only to the employees and can be used only for payment of their salaries.

Employer loses the right to use financial aid if in the period from 15 March 2020 until the expiration of three months from the last payment of direct benefits (last payment in July 2020), reduces number of employees for more than 10%, not counting employees who have concluded a fixed-term employment before 15 March 2020 for a period ending until the expiration of three months from the last payment of direct benefits (last payment in July 2020).

Employers who are entitled to apply for state financial aid are: resident legal entities, resident entrepreneurs, branches and representative offices of foreign legal entities.

Fiscal benefits prescribed for the employers shall be subject of the Tax Law paragraph.

Validity of work permits during the state of emergency was determined by the Decision on Validity of a Work Permit issued to a Foreigner during the State of Emergency (**Validity Decision**)[72]. The Validity Decision prescribes that work permits, issued to foreigners in accordance with the Serbian Law on Employment of Foreigners, and which are to expire during the state of emergency, have been valid until the State of Emergency Decree was in force (until 6 May 2020).

PRIVACY

[70] *Official Gazette of the Republic of Serbia no. 50/20*
[71] *Official Gazette of the Republic of Serbia no. 60/20*
[72] *Official Gazette of the Republic of Serbia no. 43/20*

No new piece of legislation was adopted regulating privacy law to assist the authorities in managing the COVID-19 epidemic. Therefore for privacy protection issues national legislation, primarily Law on Personal Data Protection[73], applies.

CORPORATE LAW

Serbian Government adopted Program of financial support to economic entities for maintaining liquidity and working capital in difficult economic conditions due to the COVID-19 pandemic caused by the SARS-CoV-2 virus. Financial support shall be provided in accordance with the Regulation on Establishing the Program of Financial Support to Legal Entities for Maintaining Liquidity and Working Capital (**Financial Support Regulation**)[74].

Funds for the implementation of the Program of financial support to businesses to maintain liquidity and working capital in difficult economic conditions due to the COVID-19 pandemic caused by the SARS-CoV-2 virus (the Program) in accordance with the Financial Support Regulation shall be provided in the budget of Serbia in the amount of 24,000,000,000.00 RSD (approximately 204mio EUR) intended for the implementation of. Also, for the implementation of the Program, the funds of the Development Fund of the Serbia (the Fund) shall be used.

Entrepreneurs, cooperatives, micro, small and medium-sized companies that are in majority private or cooperative ownership and that perform production, service, trade and agricultural activities have the right to use the funds under the Program.

Loans for maintaining current liquidity and working capital shall be approved under the following conditions:

- repayment period of up to 36 months, which includes a grace period of up to twelve months, the total duration of the loan is up to 12 months of grace and up to 24 months of repayment;
- interest rate is 1% per annum;
- loans shall be approved and repaid in dinars;
- the minimum loan amount for one borrower which is company is RSD 1,000,000.00 (approximately EUR 8,510.00) and for entrepreneurs, cooperatives and other legal entities registered in the relevant register RSD 200,000.00 (approximately EUR 1,700.00);
- the maximum loan amount for one borrower with related parties can be:
  - for entrepreneurs and micro legal entities up to RSD 10,000,000.00 (approximately EUR 85,100.00) ,
  - for small legal entities up to RSD 40,000,000.00 (approximately EUR 340,400,00) and
  - for medium-sized legal entities up to RSD 120,000,000.00 (EUR 1,030,000.00);
- loan repayment shall be made in monthly annuities;
- borrower provided appropriate and prescribed collaterals - determined in accordance with the amount of the loan;

[73] *Official Gazette of the Republic of Serbia no. 87/18*
[74] *Official Gazette of the Republic of Serbia no. 57/20*

- in the grace period, interest shall be calculated and attributed to the principal debt;

The condition that the applicants have to meet is that they are not in financial difficulties, i.e. that no bankruptcy proceedings have been initiated against them, that they have not been subject to proceedings for prepared reorganization plan or that the measures from the reorganization plan prepared in advance (*UPPR*) are not in force, that no reorganization plan is implemented over it or the measures from the reorganization plan, financial restructuring or liquidation procedure are not in force.

Main condition for the realization of the loans prescribed by the Program is that the applicant in the period from 15 March 2020 until the expiration of three months after the release of funds does not reduce the number of employees for more than 10%, not counting employees who have concluded fixed-term employment agreement before 15 March 2020 for the period ending within the specified time frame.

Financial assistance to companies is provided also by the state acting as a guarantor to numerous loans to aid the urgent need for liquidity under the Regulation on Establishing a Guarantee Scheme as a Measure of Support to the Economy for Mitigating the Consequences of the Pandemic of the COVID-19 disease caused by the SARS-CoV-2 virus (**Guarantee Scheme Regulation**)[75]. Eligibility criteria to have the state act as a guarantor to a company's loan are: Loans taken out at a business bank, which meet the following conditions are eligible for state guarantee:

i. loan agreement must be concluded between until 31 December 2020 and placed until 31 January 2021;
ii. loan is granted in RSD or EUR;
iii. interest rate is nit higher than 1M BELIBOR + 2,5 pp for RSD loans i.e. 3M EURIBOR + 3,0 pp for EUR loans;
iv. loan has to be used for liquidity or working capital;
v. borrowers cannot pay dividend during the first year after conclusion of the loan agreement;
vi. business bank obtained prescribed collaterals from the borrower;
vii. maximum 36 months loan maturity - 9 to 12 months grace period is included in total repayment period of 36 months.

The total amount of principal to be covered by the guarantee will not exceed EUR 2 billion.

Significant information for all legal entities in Serbia is that terms for submission of annual financial statements for 2019 are extended until 4 August 2020 (regular term is end of June).

LITIGATION

Provisional measures regulating litigation during the state of emergency declared due to the COVID-19 epidemic are contained in the Regulation on Deadlines in Court Proceedings during the State of Emergency (**Court Proceedings Regulation**)[76] and Regulation on the Application of Deadlines in Administrative Proceedings during a State of Emergency

[75] *Official Gazette of the Republic of Serbia no. 57/20*
[76] *Official Gazette of the Republic of Slovenia no. 38/20.*

(**Administrative Proceedings Regulation**)[77]. In accordance with the Court Proceedings Regulation and Administrative Proceedings Regulation judicial and administrative cases stopped the running of material time limits for the exercise of rights, and procedural time limits in non-urgent cases. Deadlines for filing a lawsuit in civil proceedings, private lawsuits in criminal proceedings, proposals for initiating non-litigation proceedings or enforcement and security proceedings, filing a lawsuit in an administrative dispute and filing a constitutional complaint, for declaring legal remedies or for undertaking other procedural actions in the judicial or administrative procedures ceased to run during the state of emergency. In criminal proceedings, misdemeanour proceedings and proceedings for economic offenses, the deadlines for filing appeals against decisions terminating the proceedings, as well as for filing extraordinary legal remedies, ceased to run during the state of emergency. All deadlines continued to run after abolishment of the state of emergency.

During the state of emergency, courts and administrative authorities were acting only in urgent matters although it was allowed to act also in non-urgent cases concerning issuance of rulings and decision and other actions which did not require physical presence of parties; When acting in urgent cases, courts and administrative authorities were obliged to ensure that these acts are carried out in accordance with all preventions and obligatory measures prescribed in Serbia and in such a way which prevents the spread of a viral infection and provides human health and life safeness.

TAX LAW

Fiscal Benefits and Direct Grants Regulation provides also supporting measures in the field of tax law. Support measures refer to deferral of maturity for the payment of certain public revenues which, in accordance with the relevant tax laws, are due for payment in the period from 1 April to 30 June 2020, and exceptionally until 31 July 2020 for taxes and contributions for compulsory social insurance pay on the salary for the month of June 2020 paid in accordance with the regulations governing work, and deferral of their payment, as follows:

- personal income tax on salaries and wage compensations and contributions for compulsory social insurance on salaries and wage compensations, as well as taxes and contributions on personal earnings of entrepreneurs and farmers, for the months March, April and May 2020, ie at the choice of the taxpayer for the month of April, May and June 2020;
- advance payment of tax on income from self-employment for March, April and May 2020 for entrepreneurs and entrepreneurs-farmers who have decided to pay personal wages and even for those who pay tax and social contributions in a lump sum;
- advance payment of corporate income tax for March, April and May 2020, ie for taxpayers with a business year different from the calendar year, advance payment of corporate income tax due on 15 April, 15 May and 15 June 2020;

For those legal entities who apply for aforementioned tax measures, maturity of the subject taxes shall be postponed until 4 January 2021 and shall be paid in 24 monthly instalments (without any interest rate). Conditions for application for these measures are the same as for financial grants regulated by the Fiscal Benefits and Direct Grants Regulation (described under paragraph ''Labour Law'').

[77] *Official Gazette of the Republic of Slovenia no. 41/20.*

FOREIGN INVESTMENTS

Package of measures adopted and implemented in order to help economy to overcome current crisis caused by COVID-19 pandemic does not include any measures concerning foreign investments.

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SLOVENIA

ODI LAW

INTRODUCTION

The Republic of Slovenia has adopted a comprehensive cluster of provisional legal measures to prevent the spread of the COVID-19 disease and to provide urgent financial support to companies and citizens. With social distancing measures currently slowly relaxing and the business correspondingly reviving, the recently adopted legislation is being put to good use aid citizens, employers, companies and the economy as such.

EMERGENCY MEASURES

Social distancing measures are mandatory under the Ordinance on the temporary prohibition of the gathering of people at public meetings at public events and other events in public places in the Republic of Slovenia[78] ("**Social Distancing Ordinance**").

As a general rule the Social Distancing Ordinance temporarily prohibits the movement, gathering of people in, and access to public places and areas in the Republic of Slovenia to contain and control the COVID-19 epidemic. Exemptions apply to groups of persons, in the case of close family members or members of a common household, and groups of employees up to a maximum of five persons, if they use joint personal transport for transport to or from work or are called up to perform tasks within the Civil Protection. Wearing a face masks or a suitable substitute is mandatory when entering a closed public space, as well as hand disinfecting. Distance of 2m should be observed. As of 11 May 2020 public transport will resume its operations.

Measures under the Ordinance remain applicable until the Government of the Republic of Slovenia issues a decision declaring that such measures are no longer needed based under the expert assessment of the Ministry of Health Expert Group on the containment and control of the COVID-19 epidemic.

Most business catering towards consumers are still prohibited from doing business under the Ordinance on the provisional prohibition on the offering and sale of goods and services to consumers in the Republic of Slovenia[79] ("**Business Prohibition Ordinance**"). The following were exempted from the beginning of emergency measures: grocery stores, including the sale of agricultural products on the farm, pharmacy, medical and orthopaedic stores, gardening and agriculture program in stores, agricultural shops, gas stations, banks, post offices, delivery services, newsstands and kiosks for the sale of newspapers and magazines, and other emergency services to ensure public safety and health.

As of 4 May 2020 shops and a number service sectors may resume with work provided they meet certain criteria and follow strict distancing and hygiene rules. Those services sectors include bars and restaurants, which may serve their guests on outdoor spaces, stores with up to 400 square meter of sales area, hair salons.

CONTRACT LAW

78 Official Gazette of the Republic of Slovenia no. 60/20.
79 Official Gazette of the Republic of Slovenia nos. 25/20, 29/20, 32/20, 37/20, 42/20, 44/20, 47/20, 53/20, 58/20 and 59/20.

General contract law provision are contained in the Obligations Code[80], whereas the recently adopted Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy[81] ("**Intervention Act**") provides a few provisional measures pertaining to contracts.

Two most notable change brought under the Intervention Act are that for creditors, who are national public law entities, contractually agreed deadlines are automatically extended for the duration of the epidemic, and the provisions on contractual penalties do not apply provided that such creditors parties to contracts the subject of which is the supply of goods, the provision of services, or, the execution of works.

In Slovenia the epidemic was declared on 12 March 2020, which marks the legally relevant date for contracts benefiting from contract law reliefs under the Intervention Act, as described above, and under the Obligations Code. Under the Obligations Code contracting parties may resort to a few reliefs, namely force majeure, subsequent impossibility of performance, change of circumstances, termination of long-term contracts, termination of contracts due to non-performance, and endangerment objection.

Provisional measures under the Intervention Act apply from 13 March to 31 May 2020, with the law providing for the possibility of a 30-day extension of the provisional duration of measures if the COVID-19 epidemic is not revoked by 15 May 2020.

Regarding loans, a recently adopted Act on the Intervention Measure on Deferred Payments of Borrowers' Obligations[82] ("**Intervention Loans Act**"). The purpose of the Intervention Loan Act is to maintain financial stability in the Republic of Slovenia, to contribute to solving the liquidity problems of companies and to facilitate the position of companies in relation to banks.

The Intervention Loans Act mandates banks with registered seats in Slovenia and banks from other EU Member States with a branch office in Slovenia, to grant their borrowers a deferred payment of their obligations under the credit agreement for a period of 12 months. Payment deferral (moratorium) provides for the suspension of the maturity of all obligations under the credit agreement until the end of the deferral period. In practice, the borrowers will conclude an amendment to the existing credit agreements, extending thus the maturity date of the credit agreement for the duration of the deferral of payment that is 12 months.

The deferral of payment of all obligations under the credit agreement, as requested by the borrowers, is subject to the former not falling due prior to 12 March 2020, the effective date of local COVID-19 epidemic declaration.

An application for deferral of payment may be submitted by companies established in Slovenia; cooperative associations, associations ("društva"), institutes, foundations, natural persons who employ workers, or self-employed persons with registered seat / permanent address in Slovenia. Furthermore, such applications may be submitted by heads of agricultural holdings and heads of supplementary farm activities, or natural persons, Slovenian citizens with a permanent address in Slovenia.

Labour Law

A cluster of labour law measures were adopted under the Intervention Act and under the Act on the Interim Measure of Partial Reimbursement of Wage Compensation[83] ("**Interim Wage Compensation Act**"). These measures cover financial aid in various forms.

80 Official Gazette of the Republic of Slovenia no. 97/07, as amended.

81 Official Gazette of the Republic of Slovenia nos. 49/20 and 61/20.

82 Official Gazette of the Republic of Slovenia nos. t. 36/20 and 49/20.

83 Official Gazette of the Republic of Slovenia nos. 36/20, 49/20, and 61/20.

For employers the financial aid comprises of:

i. reimbursement of wage compensation amounting to 80% of the base salary for absences due to force majeure, including an exemption from contributions related to such wage compensation;
ii. reimbursement of wage compensation amounting to 80% of the base salary for furloughed staff due to the employer's inability to provide work due to the effects of the new coronavirus epidemic, which includes an exemption from wage compensation contributions;
iii. pension and disability insurance contributions exemption;
iv. reimbursement of the monthly crisis allowance paid to disabled people for sheltered workshops;
v. the right to compensation for temporary absence from work due to illness or injury at the expense of compulsory health insurance from the first day of absence onwards; and
vi. exemption from paying occupational insurance contributions.

Employers, however, are obliged to pay a crisis allowance of EUR 200 for employees working during the COVID-19 epidemic.

Employers can claim wage reimbursement of furloughed workers if they are temporarily unable to provide work due to coronavirus; and will suffer a decrease in revenues by more than 10% compared to 2019 - if the submitted annual report shows otherwise, it will be necessary to subsequently repay all aid received.

Employers who operated only partly in 2019 or in 2020, and suffered financially due to the COVID-9 epidemic, are also entitled to financial aid if they suffered more than 10% reduction in average monthly revenue in 2020 compared to average monthly revenue in 2019, or more than 10% decrease in average monthly revenues in 2020 compared to average monthly revenues in 2020 until 12 March 2020.

Employees can be furloughed only in written form (electronic form can suffice). The furlough letter must detail its duration, the conditions and modalities of requesting the employee to return to work early, and the amount of salary compensation during the furlough.

At the request of the employer the employee has the right to return to work during the furlough period for up to 7 days per calendar month.

Employees unable to work due to force majeure reasons will be treated equally as furloughed employees. Force majeure reasons are as absence to provide necessary day care to their children because of kindergartens and schools temporary closure other objective reasons, or the inability to come to work due to public transport being unavailable, or the closure of borders with neighbouring countries, and other objective reasons.

For self-employed, religious servants and farmers the financial aid under the Interim Wage compensation Act comprises of:

i. extraordinary assistance in the form of a monthly basic income, and
ii. exemption from contributions.

PRIVACY

No new piece of legislation was adopted regulating privacy law to assist the authorities in managing the COVID-19 epidemic. Therefore for privacy protection the General Data Protection Regulation[84] applies.

CORPORATE LAW

Financial assistance to companies is provided by the state by acting as a guarantor to numerous loans to aid the urgent need for liquidity under the Additional Liquidity to the Economy to Mitigate the Effects of the COVID-19 Infectious Disease Epidemic[85] ("**Additional Liquidity Act**"). Eligibility criteria to have the state act as a guarantor to a company's loan are: Loans taken out at a bank, which meet the following conditions are eligible for state guarantee:

viii. loan agreement must be concluded between 12 March 2020 and 31 December 2020;

ix. loan is taken out to finance the main business activity of the borrower, which encompasses financing (a) new or completion of already started investments, (b) working capital, or (c) repayment of obligations from loan agreements concluded in the period between 12 March 2020 and 1 May 2020;

x. maximum five years loan maturity.

It bears emphasizing that financing of affiliated companies or companies established abroad does not qualify for state guarantee under the Additional Liquidity Act. The total amount of principal to be covered by the guarantee will not exceed EUR 2 billion.

Companies facing insolvency issues have under the Intervention Act a few novel options to manoeuvre their way out of red numbers. Firstly, a new situation of permanent illiquidity is presumed when a legal entity, entrepreneur (*samostojni podjetnik*) or a natural person even if it is more than one month late in paying salaries and contributions to employees provided that it received reimbursements of wage compensations and contributions under the Intervention Act. The presumption of insolvency on such grounds applies for four months after the cessation of measures under the Intervention Act.

Secondly, under the Intervention Act management is not obliged to file a motion to initiate compulsory settlement or bankruptcy if the company's insolvency has arisen as a result of the declaration of the COVID-19 epidemic. Causation is considered established if

i. the company carries out an activity (sale of goods or services) for which a government, ministerial or municipal regulation or act has determined it temporarily prohibited;

ii. the company carries out an activity (sale of goods or services) which is significantly restricted due to the COVID-19 epidemic; or

iii. the company was not insolvent as of 31 December 2019.

84 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (2016) Official Journal L 119, p. 1–88.

85 Official Gazette of the Republic of Slovenia no. 61/20.

Yet this exclusion of management's obligation to file for compulsory settlement or bankruptcy does not apply if there is no prospect for a company to escape insolvency situation, regardless if insolvency arose as a result of the COVID-19 epidemic.

Thirdly, the Intervention Act allows delays in taking measures under the Financial Operations, Insolvency Proceedings, and Compulsory Dissolution Act[86] (“**Insolvency Act**”). In the event that the company's bodies are unable to carry out certain actions under the Insolvency Act due to the objective consequences of declaring the COVID-19 epidemic, they must start implementing them no later than one month after the intervention measures cease to exist. To that end the Intervention Act extends the deadlines for the fulfilment of certain other obligations of the management, which expire no earlier than one month after the termination of the Intervention Act measures.

Fourthly, the courts may postpone taking a decision on the creditor's motion for bankruptcy for 4 months if the company's insolvency arose as a result of declaring a COVID-19 epidemic. Likewise upon debtor’s justified request postponement of the court’s decision on the initiation of bankruptcy proceedings is possible for 4 months.

As for paying out dividends or bonuses the Intervention Act dictates that entities that have invoked either a reimbursement of wage compensation for furloughed employees; a reimbursement of salary compensation to an employee who is unable to work due to force majeure; an exemption from paying employees contributions; or an extraordinary assistance in the form of a monthly basic income, will have to return all received state funds with statutory interest if they after 13 March 2020 share profit/pay out dividends or pay business performance salaries/bonuses.

LITIGATION

Provisional measures regulating litigation during the COVID-19 epidemic are contained in the Act on provisional measures for judicial, administrative and other public matters to cope with the spread of infectious disease SARS-CoV-2 (COVID-19)[87] (“**Provisional Judiciary Act**”). The Provisional Judiciary Act has in judicial and administrative cases stopped the running of material time limits for the exercise of rights, and procedural time limits in non-urgent cases. There are also no deadlines in misdemeanour cases (with the exception of urgent cases). Measures under Provisional Judiciary Act, including acts adopted there under, will apply until their reasons cease (officially this will require a publication of corresponding decision of the Government of the Republic of Slovenia), but no later than 1 July 2020.

Measures under the Provisional Judiciary Act are further regulated with the Supreme Court Order on special measures due to the occurrence of the conditions referred to in the first paragraph of Article 83a of the Courts Act and the reasons referred to in Article 1 of the Provisional Judiciary Act (“**Supreme Court Order**”).[88] The Supreme Court Order prescribes that the courts may in non-urgent cases also hold hearings, issue rulings and decisions, and serve court documents; only if the courts can ensure that these acts are carried out in accordance with the Supreme Court Order and in such a way which prevents the spread of a viral infection as well as human health and life are safeguarded.

TAX LAW

The Intervention Act envisages three main tax solutions to better the economy and the medical supply in the Republic of Slovenia. Firstly, it provides for an exemption from

[86] *Official Gazette of the Republic of Slovenia no. 13/14, as amended.*
[87] *Official Gazette of the Republic of Slovenia nos. 36/20 and 61/20*
[88] *Official Gazette of the Republic of Slovenia no. 62/20.*

payment of advance payments of corporate income tax for 2020, which fall due for payment in the period from the entry into force of the Intervention Act until 31 May 2020.

Secondly, cash donations to the Republic of Slovenia or another EU Member State for the purpose of eliminating the consequences of the COVID-19 epidemic can be used to reduce the tax base.

Thirdly, from 13 March 2020 to 31 July 2020, supplies of protective and medical equipment, including intra-EU acquisitions of these goods, may be exempt from VAT if such supplies are intended for:

(i) free distribution to persons affected by the epidemic or to healthcare staff; or

(ii) a public authority or organization, a local authority, another body governed by public law or a charitable organization.

FOREIGN INVESTMENTS

The "corona legislation package" does not affect foreign investment protection in the Republic of Slovenia.

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Spain

De Pasqual & Marzo Abogados

Introduction

On March 11, 2020, the World Health Organization elevated the public health emergency caused by COVID-19 to an international pandemic, affecting Spain with special virulence.

In order to adopt extraordinary, immediate and effective measures to deal with the health crisis, the Government decreed a state of alarm throughout the national territory on 14 March 2020 (RD 463/2020) in accordance with article 116.2 of the Spanish Constitution and article 4, paragraph b) of Organic Law 4/1981 of 1 June, at least until 24 May 2020.

To date, numerous decrees and orders have been issued which have affected many sectors and which are summarized below.

Emergency Measures

Royal Decree 463/2020, of 14 March, agreed on this date the suspension of persistent educational activity in all public and private centers, the closure of commercial premises, museums, hotels, restaurants, gyms except for those relating to basic necessities (food, pharmacies, petrol stations, technology, laundries), as well as the limitation of citizens movements (confinement).

From 15 May 2020, and for the entire duration of the state of alarm and its possible extensions (minimum forecast, until 22 June 2020), persons coming from abroad must be quarantined for 14 days following their arrival in Spain.

On 28 April 2020, a schedule was established for the de-escalation or relaxation of the restrictive measures in 4 phases with a minimum duration of 2 weeks each and conditioned by the progress of the COVID-19 pandemic indicators, which can be applied differently in the different territories of Spain, consisting of:

a) Phase 0 (Preparation): Start on May 2nd:

- Accompanied walks.
- Individual sport.
- Individual training of professional and federated sportsmen and women and basic training of professional leagues.
- Opening of small premises by appointment for individual customer care. e.g. food collection from restaurants.

b) Phase 1 (Start): Forecast 11 May. Will be allowed:

- Social meetings of up to 10 people respecting the physical distance.
- Opening of small shops.
- Opening of terraces (occupation up to 50%).
- Opening of hotels and tourist accommodation excluding common areas.

- Places of worship will be limited to 30%.

- Agri-food and fishing sector.

- Average training in professional leagues.

- Non-professional sports: for activities that do not involve physical contact or use of changing rooms.

- Open-air markets, with conditions of distance between stalls.

- Cultural shows for less than 30 people indoors (with a third of the capacity) and for less than 200 people outdoors.

- Museum visits limited to one third of the capacity.

- Wake-up parties: for a limited number of attendees

c) Phase 2 (Intermediate): Forecast 25 May Will be allowed:

- Opening of restaurants for table service, with limited capacity.

- Trips to second homes, only if they are in the same province.

- Cinemas and theatres with a third of the capacity. Monuments and exhibition halls may be visited.

- Cultural activities with less than 50 people seated. If they are in the open air, less than 400 people seated.

- Hunting and fishing.

- Educational centres (tutoring, care for children under six years of age and Selectivity).

- Re-opening of shopping centres, with a ban on staying in the common areas or recreational zones.

- Weddings for a limited number of attendees

d) Phase 3 (Advanced): Forecast 8 June. Will be allowed:

- In restaurant services, seating restrictions will be reduced, but with strict separation between the public.

- General mobility will be made more flexible.

- The occupation of spaces, such as shops, will be increased to 50% of their capacity.

- Nightclubs and bars with a maximum capacity of one third of the usual.

- Opening of beaches in safe and distant conditions.

- Bulls: With a capacity limit, that guarantees one person for every 9 square meters.

(e) Normal situation, forecast on 22 June 2020

On the other hand, urgent social measures have been taken to try to alleviate the economic effects of restrictive measures such as:

1.- Extraordinary benefit in the event of cessation of activity for self-employed workers affected by the declaration of a state of emergency

2.- Suspension of employment contracts due to force majeure and reduction of working hours, preventing the dismissal of workers.

3.- Exoneration of companies from payment of Social Security contributions.

Unemployment benefit without minimum contribution time.

4.- Coverage by the State (guarantees) of the financing granted by financial entities to companies and self-employed workers.

5.- Public aid to people in "economic crisis situation".

CONTRACT LAW

1.- Mortgage loans.

Moratorium or postponement for 3 months of the payment of the loan instalments with mortgage guarantee on the habitual residence, properties affected by the economic activity developed by entrepreneurs and professionals, and homes other than the usual one in a rental situation for which the mortgagor, owner and lessor, has ceased to receive rent.

In order for this moratorium to be granted, those who request it must be within certain quite demanding economic and family parameters, determining "economic vulnerability" (unemployment, not exceeding three times the monthly Public Indicator of Multiple Effects Income (IPREM), in other words, some 1,600 euros per month or 19,000 euros per year), etc.

2.- Lease contracts for the habitual residence.

In rental contracts for primary residence subject to Law 29/1994, of 24 November, on Urban Rentals that expire within the period from the entry into force of the alarm condition (14 March) until the day that two months have passed since the end of the alarm condition, an extraordinary extension of the term of the rental contract for a maximum period of six months may be applied, at the request of the tenant, during which the terms and conditions established for the contract in force will continue to be applied.

Moratorium or postponement of the payment of the rental income for people who rent their usual residence in a situation of economic vulnerability due to the COVID-19 up to a maximum of four (4) months, without any type of penalty and without interest. Once the state of alarm has concluded and the tenant's situation of vulnerability has been overcome, or in any case four (4) months after the end of the state of alarm, the debt that was deferred will be divided and paid together with the rent of at least the following thirty-six (36) monthly payments. As an alternative, the lessor may substitute the moratorium with a removal or partial remission of at least fifty percent (50%) of the rent.

3.- Lease contracts for use other than housing (commercial premises, hotels, gyms, etc...)

Unless otherwise agreed by the parties, the tenant may request and obtain a moratorium/deferment of the monthly rent payment, with a maximum of 4 months.

In the event that the lessor is a company or public housing entity, or a "large holder" (more than 10 urban properties leased), this deferred debt will be payable in installments over the next two years of the contract, always within the term of the contract.

In the event that the lessor is not a "large holder" in another case, to pay the deferred rent, the amount of the rental, deposit granted at the time may be used, with the obligation of the lessee to replace it within 1 year.

4.- Contracts for the sale of goods and the provision of services signed by consumers.

The right to terminate is established for a period of 14 days.

The right of consumers and users to terminate certain contracts without penalty is established in Article 36 of RD-Law 11/2020, of 31 March, the first section of which has been amended by RD-Law 15/2020, of 21 April.

5.- Contracts for the provision of successive services.

This section may include services not provided by gyms, nurseries or academies. In these cases, the company will offer the possibility of recovering the service a posteriori. If the consumer does not accept such recovery, the amounts already paid will be refunded for the part corresponding to the period of the service not provided.

The undertaking shall refrain from making further monthly payments until the service can be provided normally, without this giving rise to the termination of the contract, except where both parties so wish

6.- Cancelled package tours.

The organizer or the travel agency will provide a voucher to the travelers for an amount equal to the reimbursement they have made, which can be used for one year, counting from the end of the state of alarm.

LABOUR LAW

1.- Exceptionally, periods of isolation or infection of personnel included in the Special Schemes for Civil Servants as a result of the COVID-19 virus are assimilated to accidents at work.

2.- In cases where the company decides to suspend contracts or temporarily reduce the working day, based on the extraordinary circumstances arising from the COVID-19 health crisis, it is exceptionally agreed to recognise the right to contributory unemployment benefit, even if they do not have the minimum period of contributory employment required to do so.

3.- In relation to the self-employed, until the end of the state of alarm, they will be entitled to an extraordinary benefit for cessation of activity.

4.- The extinction of work contracts (the dismissal of workers) is not permitted, justified by force majeure and the economic, technical, organisational and production causes derived from the health crisis of the COVID-19. What is appropriate is the suspension of contracts and reduction of working hours.

5.- Once certain legal requirements have been met, companies and self-employed workers are allowed to defer payment for 6 months of their employer's social security contributions

PRIVACY

Article 11 of Organic Law 4/1981 allows the following measures to be agreed in the state of alarm:

" a) Limit the circulation or permanence of persons or vehicles at determined times and places, or condition them to the fulfillment of certain requirements. b) Practice temporary requisitions of all types of goods and impose obligatory personal benefits. c) Intervene in and temporarily occupy industries, factories, workshops, operations or premises of any kind, except private homes, reporting to the Ministries concerned. d) Limit or ration the use of services or the consumption of basic necessities. e) Issue the necessary orders to ensure the supply of markets and the operation of the services of production centers". And in application of this precept, articles 7 to 19 of Royal Decree 463/2020 have provided for a series of measures aimed at "protecting the health and safety of citizens, containing the progression of the disease and strengthening the public health system", in addition to "preventing and containing the virus and mitigating the health, social and economic impact".

The processing of data, including health data, is allowed without the consent of those concerned when it is necessary to tackle the coronavirus

Implementation of what has been called "DataCOVID", which, according to the Government, is a study of population mobility to help make decisions in the face of the coronavirus.

The Ministry of Health has even approved Order SND/297/2020, of 27 March, which entrusts the State Secretariat for Digitalisation and Artificial Intelligence of the Ministry of Economic Affairs and Digital Transformation with the development of various actions to manage the health crisis caused by COVID-19. This, in short, shows that the possibilities that geolocation can offer from mobile phone data will be massively used. It is a matter of "verifying that [the user] is in the autonomous community where he or she declares to be", and of analyzing "the mobility of people in the days prior to and during the confinement".

Additionally, it is foreseen the urgent development and operation of a computer application for the support in the management of the health crisis caused by the COVID-19, which will allow the user to carry out the self-assessment based on the medical symptoms that he communicates, about the probability that he is infected by the COVID-19, to offer information to the user about the COVID-19 and to provide the user with practical advice and recommendations of actions to follow according to the assessment.

CORPORATE LAW

1.- During the alarm period, even if the statutes had not foreseen it, the sessions of the governing and administrative bodies of the associations, of the civil and commercial societies, of the governing council of the cooperative societies and of the board of trustees of the foundations may be held by videoconference. The same rule shall apply to the delegated commissions and other obligatory or voluntary commissions that may have been set up.

2.- Likewise, during the period of the alarm, even if the statutes had not foreseen such a circumstance, the agreements may be adopted by means of a written vote and without a meeting, provided that the president so decides, and they must be adopted when at least two of the members of the body request it. The same rule shall apply to the delegated commissions and to the other obligatory or voluntary commissions that may have been set up.

3.- The period of three months from the close of the financial year for the formulation of the annual accounts, the management report if required and other legally obligatory documents in corporate matters is suspended until the end of the state of alert.

4.- If the accounts for the previous financial year have already been drawn up at the date of the alarm statement, in the event that the audit is compulsory, it shall be understood to be extended by two months from the end of the alarm statement.

5.- In order to approve the accounts of the previous financial year, the General Meeting must meet within three months from the end of the period for drawing up the annual accounts.

6.- During the state of alarm, the period of expiry of the presentation entries, preventive notes, mentions, marginal notes and any other registry entries susceptible to cancellation due to the passage of time is suspended.

LITIGATION

1.- Terms are suspended and time limits provided for in procedural laws are suspended and interrupted for all jurisdictional orders. The calculation of the terms will be resumed at the moment in which the present royal decree or, in its case, the extensions of the same one lose validity.

2.- In the criminal jurisdictional order, suspension and interruption shall not apply to habeas corpus proceedings, to proceedings entrusted to the guard services, to proceedings with detainees, to protection orders, to urgent prison surveillance proceedings and to any precautionary measures in the area of violence against women or minors.

Likewise, during the investigation phase, the competent judge or court may agree to carry out those actions which, due to their urgent nature, cannot be postponed.

3.- The periods of prescription and expiry of any actions and rights will be suspended during the period of validity of the state of alarm and, where appropriate, any extensions adopted.

4.- Suspension of the eviction procedure and of the launches for vulnerable homes without alternative housing.

5.- The month of August is partially enabled for the holding of hearings and the procedural deadlines are restarted instead of being continued when the suspension ends.

6.- The hearings will be held telematically during the state of alarm and during the following three months.

Insolvency Act:

1) MEASURES IN CASE OF FORESEEABLE NONCOMPLIANCE WITH THE CREDITORS' AGREEMENT.

a) The proposed agreements may be modified during the year following the declaration of the state of alert (art.8 RD). This modification, also known as a "counter-agreement", is made to give some flexibility and margin to those companies that were complying with their payment plan and that due to the situation generated by the COVID-19 will not be able to comply with it.

It should be noted that the amendment of the agreement will not apply to claims accrued or incurred during the period of performance of the original agreement or to privileged

creditors to whom the effectiveness of the agreement has been extended or who have adhered to it once it has been approved, unless they vote in favor of or expressly adhere to the proposed amendment.

b) The debtor is not obliged to apply for liquidation for breach of the agreement during the year following the declaration of the state of alert (Art. 9 RD), provided that he presents a proposal for modification of the agreement.

Within the same period, the judge cannot issue an order for the opening of the liquidation phase for breach of the agreement, even if there are causes that justify it.

In the event that the modification of the agreement is not complied with within two years of the declaration of the insolvency proceedings, all those credits (i) derived from treasury income (loans, credits, etc.) that have been granted to the bankrupt party or (ii) derived from personal or real guarantees in his favour, including those that have the condition of "specially related person" (art 93 LC), will be considered as credits against the mass.

2) PRE-INSOLVENCY MECHANISMS

a) Refinancing agreements may also be modified during the year following the declaration of the alarm state (art.10 RD).

The debtor will inform the court of the start of negotiations to reach a new agreement. Within the six-month period from the declaration of the alarm state, all applications for the breach of refinancing agreements submitted by any creditor shall be notified to the insolvent party, although they shall not be admitted until one month after the end of that six-month period. It will be within this month that the bankrupt party may notify the court of the start of negotiations for the purposes of modifying the approved agreement or reaching a new one.

b) The Extrajudicial Payment Agreement (231 LC and following) will be considered to have been attempted due to the lack of acceptance of two bankruptcy mediators, provided that (i) these faults are accredited, (ii) they occur during the year following the declaration of the state of alarm and (iii) the court is duly notified (art. 17 RD).

3. DECLARATION OF INSOLVENCY

a) Until 31 December 2020:

i. The debtor who is in a state of insolvency (art. 2 LC) is not obliged to apply for a declaration of insolvency.

ii. The judges will not admit the necessary applications for insolvency proceedings that have been submitted since the declaration of the state of alert.

iii. The application for voluntary insolvency proceedings shall be given preference over the application for necessary insolvency proceedings by the judge, even if the former is later than the latter.

4) PERSONS SPECIFICALLY RELATED (hereinafter PSR)

It is provided that in those insolvency proceedings declared during the two years following the declaration of the state of alert, ordinary claims will be considered:

i. Credits derived from new treasury income that would have been granted to the bidder since the declaration of the alarm state by PER.

ii. Credits in which PER has been subrogated as a result of payments of ordinary and privileged credits made by it, as from the

declaration of the state of alarm.

5) PREFERENCE IN THE HANDLING OF CASES

a) A list is established of the matters to be dealt with on a preferential basis during the year following the declaration of the alarm state, which consist of

i. Insolvency incidents in labor matters.

ii. Actions aimed at the disposal of production units or the sale of assets in a balloon.

iii. Proposals for agreements or modifications of those that are in the period of compliance, as well as incidents of opposition to the judicial approval of the agreement.

iv. Insolvency proceedings relating to the reintegration of the workforce.

v. Admission to processing of the application for approval of a refinancing agreement or modification of the one in force.

vi. The adoption of precautionary measures and, in general, any other measures which, in the opinion of the insolvency administrator, may contribute to the maintenance and conservation of the assets and rights.

6) LIQUIDATION

(a) The auctions of goods and rights must be out of court, in competitions declared one year after the state of alert or those that were in progress during the course of the same, even if the approved Settlement Plan (hereinafter PL) established otherwise when in this respect (art. 15 RD), with the exception of:

i. Production units (any method of production is valid).

ii. Judicial authorizations on goods affected by the special privilege or dations in payment (the judge will authorize it).

TAX LAW

1.- Once certain requirements are met, the conditions for granting the deferment of tax debts whose income must be paid by 30 May are relaxed for those debtors whose volume of operations does not exceed 6,010,121.04 euros in 2019.

2.- Extension until 30 May of the following deadlines, when they expire prior to said date: (1) for payment of tax debts, (2) for procedures referring to auctions and the awarding of goods, (3) deadlines for attending to summonses, seizure proceedings and requests for information with tax implications, and (4) deadlines for presenting allegations in unfinished procedures for the application of taxes, penalties, the return of undue income, the correction of errors and revocation.

3.- Extension of the deadlines until 20 May 2020 for the presentation and payment of tax returns and self-assessments by those liable for tax with a volume of transactions not exceeding 600,000 euros in 2019.

4.- Also for those liable with a volume of transactions not exceeding 600,000 euros in 2019, the possibility of calculating the payment in instalments of the corporate income tax for the first period of 2020 based on the taxable base of the first quarter, and not

based on what was declared in 2018. Those liable to pay the first instalment at the time this option is granted, calculating it in accordance with what was declared in 2018, may also choose to calculate the second and third instalment in 2020 considering the taxable base at the end of those payment periods.

5.- Possibility for taxpayers of Personal Income Tax who carry out economic activities whose net income is determined in accordance with the objective estimation method, to renounce said method now and move on to the calculation of said income by direct estimation. And if they opt for this method of calculation for 2020, it will be possible to recover the objective assessment method from 2021.

If said taxpayers maintain the objective method of determining the net yield of their economic activity, and with respect to the fractioned payment to be made in each quarter, the calendar days in which the alarm status would have been declared in said quarter will not be counted as days of exercise of the activity. The same shall apply in the case of taxable persons covered by the simplified value added tax (VAT) scheme.

6.- The enforcement period for the collection of tax debts which have been declared within the periods regulated in the General Tax Law shall not commence without the corresponding payment being made.

7.- Upon request, the Port Authorities may grant the postponement of the corresponding tax debt of the liquidations of port taxes accrued from the date of entry into force of Royal Decree Law 7/2020, of 12 March, which adopts urgent measures to respond to the economic impact of COVID-19 and up to 30 June 2020, both inclusive.

FOREIGN INVESTMENTS

1.-Suspension of the liberalization regime for certain foreign direct investments in certain strategic sectors of the Spanish economy that affect national security, public order and public health (the "Strategic Sectors").

2.- These are "foreign investments":

a) Investments made by residents in countries outside the European Union (EU) and the European Free Trade Association ("EFTA")

(b) Investments made by investors resident in the EU or EFTA whose beneficial owners are resident in countries outside the EU or EFTA, where beneficial ownership exists when the person or entity: (i) owns or controls, directly or indirectly, more than 25 % of the capital or voting rights of the investor; or (ii) otherwise exercises control, directly or indirectly, over the investor, subject to (a) as a result of the investment the investor holds a stake equal to or greater than 10 % of the Spanish company's capital; or (b) as a result of a corporate transaction, act or legal business, the investor participates effectively in the management or control of the Spanish company (as defined in Article 42 of the Spanish Commercial Code).

3.- The strategic sectors concerned are the following:

(a) physical or virtual critical infrastructures (including energy, transport, water, health, communications, media, data processing or storage, aerospace, defense, electoral or financial infrastructures, and sensitive facilities), as well as land and real estate which are key to the use of such infrastructures.

(b) critical technologies and dual-use items (including goods, software and technology that can be used for both civil and military applications), as well as artificial intelligence technologies, robotics, semiconductors, cybersecurity, aerospace, defense energy storage, quantum and nuclear technologies, as well as nanotechnologies and biotechnologies.

(c) the supply of critical inputs, in particular energy or those relating to raw materials as well as food safety.

(d) sectors with access to or control over sensitive information, in particular personal data.

(e) the media (without further specification).

(f) other sectors if they affect in general national security, public order or public health in the country.

4.- System of prior administrative approval: The investments described above are subject to prior administrative approval by the Spanish Government (Council of Ministers).

Investment operations carried out without the required prior authorization will be invalid and without legal effect until they are legalized. In addition, failure to comply with the duty to apply for authorization or with any condition established by the Spanish authorities in connection therewith, and to carry out the investment before it has been authorized, will constitute a very serious infringement and may give rise to the following fines: (i) a fine of up to the economic value of the transaction (in any case, with a minimum of 30,000 euros); and (ii) public or private reproach to the non-compliant.

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Switzerland

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Introduction

Switzerland is a federal state and a semi-direct democracy. Starting end of February, beginning of March 2020, the Swiss Federal Government enacted a series of laws and ordinances to cope with the health, economic and legal problems to cope with the impact of COVID-19. The Swiss Federal Constitution allows the Swiss Federal Government to enact so-called emergency laws in situations like this, suspending for a limited period of time the popular votes and the legislative power of the Swiss Parliament and to a certain extent also of the Swiss Cantons. The lockdown of the country was not an absolute one, i.e., only certain branches of business were obliged to close (e.g., restaurants, hotels, shops) and people were advised, but not obliged to confinement. Predictions are that the economy could be hit similar to the times of the oil crisis mid 1970ies.

Emergency Measures

Companies affected by the economic effects of the COVID-19 could apply, starting 26 March 2020, for bridging loans from their respective banks up to a maximum of 10% of their annual turnover, with the maximum amount being capped at CHF 20 million. Loans of up to CHF 500,000 were paid out by the banks within a short period of time (days, if not hours) and are fully secured by the Swiss Federal Government; the interest rate is set at 0%. Bridging loans that exceed the amount of CHF 500,000 are covered by the Swiss Federal Government to 85%, with the lending bank taking a 15% stake in the loan; the interest rate is currently 0.5% on the part secured by the Swiss Federal Government. Companies with a turnover of more than CHF 500 million are not covered by this program.

Contract Law

Orders issued by the Swiss Federal Government which (directly or indirectly) prohibited a party from performing its part of a contract is deemed to be a legal impossibility in the meaning of Art. 119 Swiss Code of Obligations ("CO"). Pursuant to Art. 119(1) CO, where the execution of an obligation has not only been delayed but becomes impossible, the party who is not able to perform is relieved from its obligation to do so. Thus, the other party may not claim performance anymore. At the same time however, according to Art. 119(2) CO, the non-performing party is not entitled to payment and, if the other party has already paid, the latter is entitled to a full refund.

However, Art. 119 CO is a non-mandatory provision in Swiss Law. Thus, agreements may validly provide for another definition of "impossibility" and/or allocate the risk of impossible performance differently. This is quite frequent in practice (e.g. force majeure or hardship clauses), and such risk allocation provisions are often included in general terms and conditions.

Labour Law

After the Swiss Federal Government had ordered the lockdown in the second week of March 2020, more than one third of the Swiss labor force was put on short-time work. Short-time work is intended to compensate for temporary employment slumps and preserve jobs in case of work reduction by at least 10%. The compensation is paid out to employers, who are obliged to advance the compensation and pay their employees' wages on the regular payday. The Swiss Federal Government has taken various measures to enable a quicker and less burdensome process. The notification and waiting period for compensation has been lifted, which means that compensation is paid from the first day of work reduction. The approval of requests is granted for a period of six months. Employees no longer have to use up their accrued overtime hours in advance. Shareholders or other financially involved parties as well as senior executives and their assisting spouses or registered partners are now also entitled to compensation. In addition, employers can request advance payment of wages due.

SOCIAL SECURITY

If an employer receives short-time work compensation, it must still pay social security contributions in accordance with normal working hours for concerned employees, i.e. the contributions must be calculated on the basis of the normally owed wages.

If social security contributions (OASI/DI/EL/ALV) cannot be paid on time, it is possible to request payment in instalments and deferrals of payments.

For six months, the compensation offices will waive interests on late payments.

No reminders for social security contributions will be sent until the end of June 2020.

Invoices on account for social security contributions can be adjusted at the request of the debtors if the total wages of the company or the turnover of self-employed persons has decreased significantly.

PRIVACY

The introduction of a tracing app is currently being discussed, in particular in the view of respecting Swiss (data) privacy laws.

CORPORATE LAW / BANKRUPTCY LAW

On 13 March 2020, the Swiss Federal Government adopted Ordinance 2 on Measures to Combat Coronavirus (COVID-19), which allows companies to hold virtual shareholders' meetings. This measure was extended several times and will be valid (at least) until 30 June 2020.

On 16 April 2020, the Swiss Federal Government issued measures to prevent the bankruptcy of companies facing temporary financial difficulties as a result of the COVID-19 pandemic. The Ordinance on Insolvency Measures to Overcome the Corona Crisis (COVID-19 Ordinance on Insolvency Law), which came into force on 20 April 2020 and will remain in force for (at least) six months, introduces two main measures:

(1) Suspension of the obligation for over-indebted companies to file for bankruptcy. If justified concerns of over-indebtedness exist – i.e. if a company's loss exceeds its equity and the equity (retained earnings and reserves) is thus negative – the board of directors of a company limited by shares (Aktiengesellschaft / société anonyme /

società anonima) must prepare an interim balance sheet at going concern and liquidation values (Art. 725(2) CO). If the balance sheet shows that the company is over-indebted, the board of directors must immediately notify the bankruptcy court, unless creditors of the company subordinate their claims to the extent of the capital deficit. According to the COVID-19 Ordinance on Insolvency Law, the obligation to file for bankruptcy pursuant to Art. 725(2) CO is suspended if (a) the over-indebtedness is a direct result of the COVID-19 pandemic, (b) the company was not over-indebted as at 31 December 2019, and (c) there are good prospects of eliminating the over-indebtedness by 31 December 2020.

(2) Simplified COVID-19 moratorium for SMEs. The COVID-19 Ordinance on Insolvency Law provides for a temporary, simplified debt moratorium regime for SMEs in the form of sole proprietorships, partnerships or legal entities, if they meet the following conditions: (a) the debtor is an SME (companies which are not public and which are not subject to ordinary audit under the CO), and (b) the debtor was not over-indebted on 31 December 2019 or creditors had subordinated their debt within the meaning of Art. 725(2) CO to the extent of the over-indebtedness. The company must submit an application for a COVID-19 moratorium to the competent court. The effects of a COVID-19 moratorium essentially correspond to those of the ordinary debt moratorium as per Art. 297 and 298 of the Debt Enforcement and Bankruptcy Act. In particular, debt collection proceedings can no longer be initiated or continued against the debtor, and civil and administrative proceedings concerning claims under the moratorium are temporarily suspended. Only claims against the debtor that arose before the moratorium was granted fall under the COVID-19 moratorium, and the debtor may not settle such claims, under threat of bankruptcy proceedings being launched against it. First-priority claims (for example, claims for wages by employees) are excluded from the moratorium. The COVID-19 moratorium lasts three months and can be extended once for three additional months. Normally, no official receiver will be appointed; however, a receiver may be appointed upon request by the debtor or a creditor, or ex officio. The debtor may continue its business activity during the COVID-19 moratorium provided that no legitimate interests of creditors are affected.

In addition, the existing instrument of the debt moratorium, which is available to all debtors, has been adjusted and simplified for the duration of the COVID-19 Ordinance on Insolvency Law. With the application for a provisional debt moratorium, there is now no need to submit a restructuring plan to the court. The duration of the provisional debt moratorium will be extended from four to six months in order to take account of the longer time needed for restructuring in view of the ongoing COVID-19 pandemic.

TENANCY LAW

On March 27, 2020, the Swiss Federal Government issued the COVID-19 Ordinance on Rent and Usufructuary Lease.

The time limits to be set in case of payment arrears by tenants and lessees have been extended. The landlord had to set a new payment deadline of at least 90 days (previous regulations: at least 30 days for residential and business premises and at least 10 days for all other rented property) for tenants in arrears with the payment of rent or ancillary costs due between 13 March 2020 and 31 May 2020 and threaten them with the termination of the rental agreement if the time limit expires unused.

The main question - whether rent is still owed if the rental premises cannot be used due to the closure of publicly accessible facilities by the Swiss Federal Government Council -

has not been answered and is currently being discussed by Swiss Parliament. Many landlords and tenants agreed on a temporary reduction or at least a deferment of the rent.

LITIGATION

From 19 March to 4 April 2020, there was an extraordinary standstill in all debt enforcement proceedings throughout Switzerland. Extraordinary judicial vacations applied for the same time period to civil and administrative proceedings.

TAX LAW

Between 1 March 2020 and 31 December 2020, no default interest will be charged on all Swiss federal taxes, levies and customs duties, which includes direct federal taxes, VAT, withholding tax, customs duties and levies.

Various Swiss Cantons have introduced or announced similar regulations.

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TURKEY

BORBAY LAW OFFICE

CONTRACT LAW

The Impact of COVID-19 Pandemic on Lease Agreements

With the Law No. 7226, published in the Official Gazette on 26.03.2020; it has been regulated that the failure to pay the commercial rent from 01.03.2020 until 30.6.2020 will not constitute a reason for termination and evacuation. This arrangement partially resolves the problem, and only allows to delay the payment of the rent for this period. However, more permanent solutions are required for the rental debt of the companies whose businesses are completely closed or to a largely stopped.

1. Those whose activities have been stopped for a temporary period due to legal regulation

With the Circular dated 16.03.2020, some workplaces have been temporarily shut down. (Theater, cinema, show center, concert hall, engagement / wedding hall, places with pre-recorded or live music (restaurants, dance halls and studios etc.), casino, pub, tavern, coffee shop, café, cafeteria, country garden, hookah lounge, hookah cafe, internet lounge, internet cafe, all kinds of games halls (arcade, playstation, etc.), all kinds of indoor playgrounds for children(including shopping malls and restaurants), tea garden, clubhouses, amusement park, swimming pool, Turkish bath, sauna, hot spring, massage parlor, SPA and sports centers.)

2. Those whose activities were partially suspended due to the legal regulation

With the Circular dated 21.03.2020, all restaurants regardless of whether they serve alcoholic beverages or not, patisseries and similar establishments can only serve in the form of takeaway or delivery, and cannot offer tables to customers. In other words, the activities of these workplaces are not completely but partly stopped.

3. Those who stop their activities with their own decisions in terms of economic reasons and worker health

For example textile factories, conference organization companies.

All three situations we have tried to count above are due to a force majeure accepted by the World Health Organization as a “Pandemic”. At this point, our suggestions to tenants who have temporarily closed their workplaces altogether or have experienced a significant job losses:

- First of all, if possible, the most effective solution for the Tenant and the Owner would be to come together and revise the rent in accordance with the rules of bona fides (good faith), by making an Additional Protocol until the force majeure is over.

- If that's not possible, the intervention of the judge may be requested by filing an adaptation case due to the difficulty of performance of the tenant, as stated in the article 138 of the Turkish Code of Obligations. Judge can interfere with rent, form of payment etc. according to conditions of contractual parties and circumstances.
- It is not legally possible to request a full or partial reimbursement of rent paid without any reservation. Because of that, it is necessary to set up a "reservation" regarding to rights to file an adaptation case according in the article 138 of Turkish Code of Obligation, when making a payment.
- Since it is not clear how long the "temporary period" will continue, if enduring through this period cannot be expected from the tenant (reasonable tolerance period which should be evaluated separately for each event), the termination of debt (contract) may also be in question according to the article 136 of the Turkish Code of Obligations, as this situation creates an impossibility of performance.

LABOUR LAW

1. What is Short-Term Employment?

Pursuant to the Unemployment Insurance Law No. 4447, if the weekly working hours in the workplace are significantly reduced or the work is stopped completely or partially due to compelling reasons, general economic crisis, sectorial crisis or regional crisis, short-term employment can be done in the workplace for a limited period up to 3 (three) months. Turkish Employment Organization announced that short-term employment has been initiated within the scope of the compelling reasons arising from externally influenced periodic situation, namely COVID-19.

2. Will All Employees Receive Short Employment Allowance (SEA)?

In order for the employees to be entitled to short-time employment allowance, they have to meet requirements cited below

- The employee must be working uninterrupted for the last 60 days
- The number of working days in the last three years should be 450.

3. What Amount of SEA Will Be Received?

The daily short-time employment allowance to be paid to employees is determined as 60% of their average daily gross earnings not exceeding 150% of the monthly minimum wage. It is paid by Turkish Employment Organization for a short period of time not exceeding 3 (three) months.

4. How Will It Be Paid?

The short-time employment allowance will be paid to the employee himself/herself, monthly and on the fifth day of each month, and the payments will be made to the employees through the PTT Bank. The employer will determine the short working period considering the traditions of the workplace and the nature of the work; For short-term periods, SSI Monthly Premium and Service Document and short-term justification will be reported as "18-Short Term Work Allowance" on behalf of employees.

5. When Will It Begin?

In the event that short employment is done for compelling reasons, the payment of short employment allowance will start after the 1 (one) week of unworkable period for the compelling reasons Within this specified 1 (one) week period, employees will be paid half their wages by employers.

6. When Will It End?

Short-time employment allowance given to employees will be cut in the following cases:

- Getting into work, If the employee finds a new job
- Starting to get old age pension, If employee starts getting pension
- Taking it under arms for any reason, If employee enrols in the army
- If the employee leaves his/her job due to a work assignment arising from any law
- If employee starts to receive temporary incapacity benefit

7. How to Request Short Employment from Turkish Employment Organization?

Employers who want to benefit from short employment should first inform Turkish Employment Organization (and, if applicable, the labor union party to the collective bargaining agreement) in writing. Short employment requests can be made via e-mail to the e- mail addresses reported by Turkish Employment Organization, along with their evidence, including the Short Employment Request Form and information about the employees subject to short employment.

8. How Will Turkish Employment Organization Evaluate?

The examination regarding the suitability of the short work will be carried out only on the documents sent to Turkish Employment Organization and no physical visit will be made to the employers' workplaces.

9. Overpayments Made by Turkish Employment Organization

In case of overpayment by Turkish Employment Organization due to the employer providing incorrect information and documents, the overpayments in question will be collected from the employer along with their legal interest. The overpayments resulting from the employee's fault will be collected from the employee along with their legal interest.

10. Early Termination of Short Employment

In the event that the employer wishes to continue his normal activities by terminating the short employment during the continuation of the short employment practice, the employer should notify Turkish Employment Organization (and, if applicable, labor union party to the collective bargaining agreement) and the employees 6 (six) business days in advance. The short employment will end as of the date stated in the notification.

CORPORATE LAW

COVID-19 limitation on profit distribution to shareholders

According to article 13/5 of the "*REGULATION ON THE PROCEDURES AND PRINCIPLES OF THE GENERAL ASSEMBLY MEETINGS OF THE JOINT STOCK COMPANIES AND THE REPRESENTATIVES OF THE MINISTRY OF CUSTOMS AND TRADE AT THESE MEETINGS*" Turkish Ministry of Commerce, on the grounds of COVID-19, stated that the following points should be taken into consideration in general meetings to ensure that capital companies protect their equity:

1 - Previous year's profits not to be distributed

2 - A Maximum of 1/4 of 2019's profits to be distributed

3 - The board of directors not to be authorized for profit distribution in advance

The article 13/5 of the mentioned regulation is as follows:

"*As a result of an audit, or for any reason, the issues that are requested to be discussed by the Ministry of Commerce in the general assembly of the company are mandatory to put on the agenda.*"

As can be seen, with article 13/5, the Ministry is only authorized to put an item on the agenda, and not with the right to intervene in the decision-making. We think that if the lawmakers wanted the Ministry to intervene in the decisions, the above-stated article would include a sentence akin to, "*...and decisions will be taken accordingly*". (It is very likely that if this shortcoming is noticed, necessary legal arrangements will be made.)

Of course it's just our legal opinion. Although we criticize it, the attached article contains instructions of the Ministry. According to that:

1. It is stated in the general assemblies to be held after 31.03.2020, restrictions mentioned above should be followed.

2. In the general assembly meetings to be held with the participation of the Ministry representative, it will not be possible to take a decision opposing the instructions of the Ministry.

3. In the general assembly meetings held without the participation of the Ministry representative, decisions about distribution of profits taken without complying with the above restrictions will only be subject to notification made to the registry and will depend on the registry's evaluation of the subject. (If there is no subject issue to registration at ordinary general assemblies, the registry is only notified, by sending the general assembly decision and the attendance sheet. The issue of distribution of profits is not subject to registration per se.)

4. Since there is no statement regarding the decisions taken at the general assemblies held before 31.03.2020, we think that the general assembly resolutions and profit distributions made before that date are valid.

It is very important for companies to protect their equity, contrary behavior already bound by the sanctions under Article 376 of the Turkish Commercial Code. In this context, we attach great importance to this warning of the ministry and we believe that the partners of the company will make the best decision according to the situation of the company. It should also be remembered that if a decision to distribute the profits is reached, the distributed profits will be subject to income tax and thus, tax income will be created for the Ministry of Treasury in these troubled days.

Conclusion and Suggestion:

- It is possible to distribute profits in accordance with the instructions in order to avoid risk in our companies, where distributing all current profit is not essential,

- In companies where all dividend distribution is planned in advance and considered to be essential for the partners, it is necessary to make a decision before a binding and clear legal regulation preventing this decision,
- Especially companies that do not have a capital problem within the scope of article 376 of the Turkish Commercial Code can decide making an extraordinary general meeting with only "profit distribution" on the agenda. (This will not be possible for companies, which hold their general meetings with compulsory participation of the representative of Ministry.)

With "*LAW ON AMENDMENT OF THE LAW TO REDUCE THE EFFECTS OF THE NEW CORONAVIRUS (COVID-19) OUTBREAK ON ECONOMIC AND SOCIAL LIFE AND SOME OTHER LAWS*" the regulation on this subject is as follows:

1. Until the date of 30/09/2020, General Assemblies of companies can only decide to distribute up to twenty-five per cent of the net period profit of 2019. Previous year's profits and free reserves cannot be distributed,
2. General Assembly cannot authorize the Board of Directors to distribute advance dividends.
3. If the General Assembly has decided to distribute dividends for the fiscal year of 2019, but the shareholders have not yet been paid or only partially paid, the payments exceeding twenty-five per cent of the net profit for 2019 will be postponed until 30/09/2020.

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UNITED KINGDOM

SLIG LAW LLP

INTRODUCTION

The Government of the United Kingdom has put in place a number of schemes and mechanisms to support individuals and businesses during the **coronavirus outbreak**. Here are some practical steps undertaken in different areas of law and procedure. The information herein outlined is for information purpose only and do not substitute a tailored legal advice.

EMERGENCY MEASURES

Emergency measures to give ministers powers to take actions to respond to the progress of the coronavirus outbreak have been put in place (**Coronavirus Act 2020**). The following are the main areas in which the emergency measures will take place:

- increasing the available health and social care workforce and easing the burden on frontline staff (i.e. The Act enables the registration of recently retired health and social care professionals, medical students near the end of their training, and those who have recently left the profession);

- reducing unnecessary social contacts (i.e. The Act gives ministers the power to restrict or prohibit gatherings or events, and the power to close or restrict access to premises; i.e. The Act gives ministers the power to require the temporary closure of schools);

- supporting and protecting the public to follow public health advice (i.e. The Act enables the Government to make regulations to allow certain employers to reclaim the cost of providing statutory sick pay to their employees from HMRC for Covid-19-related absences);

- allowing police and immigration officers to support and enforce public health measures;

- enabling Border Force to temporarily suspend operations at airports or transport hubs if there are insufficient resources to maintain border security.

These measures are **temporary**, proportionate to the threat, will only be used when strictly necessary and will be in place for as long as required to respond to the coronavirus emergency.

CONTRACT LAW

The contractual position in English law is that a party affected by coronavirus would normally be required to perform its obligations.

A notable exception to the above general rule is the **force majeure** clause that usually specifies a number of events out of the control of the parties. However, because a contract includes a force majeure clause, it does not always mean that coronavirus will be automatically included (i.e. if the clause does not expressly refer to pandemic or if it does not include a general reference to events behind the control of the parties).

There are other cases in which a party may be able to terminate the contract: i.e. some contracts may contain a clause allowing a party to terminate the contract in the event of a material change of circumstances or on the basis of a change in law.

In addition, the doctrine of frustration may apply: a contract may be discharged on the ground of frustration when something occurs after the formation of the contract which renders it physically or commercially impossible to fulfil the contract.

LABOUR LAW

Current Government advice is for everyone to stay at home and employers should support their employees to follow this advice including agreeing more flexible ways of working.

For any employee working from home, the employer should pay the employee as usual, keep in regular contact and check on the employee's health and wellbeing.

In addition, employers must be especially careful and take extra steps for anyone in their workforce who is in a vulnerable group (i.e. aged 70 or over) and must receive any Statutory Sick Pay (SSP) due to them from their first day of self-isolation if it's because of the coronavirus. Moreover, in most situations, employees should use their paid holiday in their current leave year to get enough rest and keep healthy.

It's also good practice for employers to make sure everyone is social distancing if they come into the workplace, hold meetings remotely and avoid travel as much as possible, make sure there are clean places to wash hands with hot water and soap and encourage everyone to wash their hands regularly and provide hand sanitizer and tissues for staff, and encourage them to use them.

Employers might also need to put some or all of their employees on temporary leave ("**furlough**") during the coronavirus pandemic: furlough is where an employee agrees with their employer to stop work temporarily but stay employed. The employer may be able to get financial support from HMRC's Coronavirus Job Retention Scheme and can claim for up to 80% or £2,500 of each furloughed employee's usual wages, whichever is lower.

Financial support for self-employed is also in place and they can receive a taxable grant of 80% of their average monthly income (subject to certain conditions, up to a maximum of £2,500 per month).

PRIVACY

There have been some issues regarding the collection and the use of personal data during the coronavirus pandemic.

Government needs to make sure that people get **vital public health messages** via phone, email or text and – due to the emergency situation- in the above circumstances the recipients consent may not be required.

Also, people can be asked to give details about **sensitive health conditions** and **recent travels**. In addition, employers do have an obligation to protect their staff so - in some cases - it can be reasonable for them to ask employers if they have experienced **coronavirus symptoms**.

Moreover, if someone becomes ill with coronavirus, his/her employer might need to tell his/her colleagues, however those information needs to remain anonymous.

In addition, there have been issues regarding the use of the **mobile phone tracking data** to help during the coronavirus emergency and the official position of the Information Commissioner's Office -Deputy Commissioner- Steve Wood is as follows:

"*Generalised location data trend analysis is helping to tackle the coronavirus crisis. Where this data is properly anonymised and aggregated, it does not fall under data protection law because no individual is identified*". "*In these circumstances, privacy laws are not breached as long as the appropriate safeguards are in place*".

CORPORATE LAW

The Government has put in place some schemes and mechanisms to support businesses during the coronavirus pandemic and directors need to consider the range of options available to them and to their employees (i.e. furlough). However, it is vital for the directors to think about the impact of their decisions amongst clients, counterparts, etc.

Even in this emergency, the **duties owed by a director to the company** remain the same: the **Companies Act** provides that directors must act in good faith and promote the success of the company. They also have a general duty to exercise reasonable care, skill and diligence when acting in their capacity as director.

The above duties and responsibilities need to be exercised with great care in the light of the mid-long term impact that their decisions will have on the company's business, with particular regard to the evolution of the pandemic.

In other words, decisions taken in the coronavirus emergency (i.e. furlough, borrowing, etc.) would be considered differently in normal circumstances therefore good faith should always guide the directors in their decision making process.

A further aspect of company law that came under the spotlight during the coronavirus pandemic is the possibility for companies to hold **virtual meetings**.

The Model Articles permits company meetings to be held by electronic means, allowing each of the members to attend the meeting from different locations. Companies with older articles, can update them by way of a statutory written resolution.

LITIGATION

In order to help people to comply with the Government's advices, HMCTS (**Her Majesty's Courts and Tribunals Service**), have put in place specific plans and procedures.

In particular, many online court and tribunal services are available to professional users and members of the public and the work of courts has been consolidated into fewer buildings. Where courts and tribunals are closed, HMCTS will contact parties directly to confirm new hearing arrangements.

In addition, **Cloud Video Platform (CVP)** will start to be used in some civil and family hearings, as well as Skype. Physical hearings will be avoided and arranged remote hearings wherever possible.

The main aim is to minimise the number of people attending in person and that hearings should be conducted with participants attending remotely as the rules of the civil courts are flexible enough to enable video or telephone hearings of almost all cases.

The **Civil Justice in England and Wales Protocol** regarding remote hearings applies to hearings of all kinds: however, it remains a matter for the judge to determine the method by which the hearing should be conducted. In addition, the hearings should be still accessible to the public (i.e. live streaming of the hearing over the internet).

TAX LAW

Several Tax schemes have been put in place to support business and individuals throughout the coronavirus outbreak.

Payments of **VAT** for the period from 20 March 2020 until 30 June 2020 may be deferred until April 2021. On the other hand, VAT reclaims will be paid by HMRC as normal in order to support the businesses. In addition, **income tax** self-assessment payments for the self-employed that are due on 31 July 2020 will also be deferred until 31 January 2021.

All business in the hospitality and retail, such as pubs, cinemas, shops and restaurants will pay no **business rates** this tax year and a £25,000 grant will also be available to businesses with smaller retail, hospitality and leisure premises that have a rateable value between £15,000 and £51,000.

In addition, small and medium sized businesses will be eligible for a refund of up to two weeks' **statutory sick pay paid** to certain employees.

HMRC is also relaxing its **tax residence** tests in a number of circumstances - as tax residence for both businesses and companies depends to a large extent on the physical location of the relevant individuals – as a consequence of the travel restrictions.

Finally, we have already discussed about the Coronavirus **Job Retention Scheme** under which UK employers are able to access support to continue paying part of their employees' salaries. This scheme has also some tax implications as income tax and National Insurance Contributions are expected to be payable as normal on payments made under the scheme.

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UNITED STATES OF AMERICA

POLSINELLI©[89]

CONTRACT LAW

COVID-19 is causing a rapidly evolving public health crisis, and businesses face uncertainty about their commercial relationships. That uncertainty is raising questions about performance under contractual agreements that were entered into before this public health crisis unfolded. Contract-law concepts like force majeure, impracticability, and frustration of purpose—which rarely apply in normal circumstances—are now front and center, and understanding their application is critical to most businesses.

Force Majeure

A force majeure provision is a standard clause found in many commercial contracts. "Force majeure" is a French term meaning an irresistible, super human or superior force and such provisions excuse performance when events that are unforeseeable and beyond the control of the contracting party occur. While force majeure clauses are common, enforcement of such provisions is not. As a result there is little guidance from courts. Also, there are many forms of force majeure provisions and their applicability turns heavily on the language of the provision. Therefore, whether any particular force majeure provision might apply in the context of the COVID-19 outbreak depends on the language of the provision at issue as well as the jurisdiction in which enforcement is sought.

However, there are certain concepts that appear throughout the case law which can be used to provide some guidance. First, the party seeking to avoid performance must be able to show that performance was impracticable. It is not enough to show that there was an event, such as a pandemic, that occurred. Rather, the event must be the reason that performance could not be completed. Second, the contracting party must not be at fault for either the event or the non-performance and the event must have been unforeseeable at the time the contract was executed. An increase in the expense of performance or a change in market conditions alone, is generally not sufficient because those types of economic uncertainties are foreseeable. Third, the event must fall within the scope of the particular force majeure provision which turns on the contract language. A contract provision that identifies pandemics, disease, or outbreaks as force majeure events is going to be more useful when trying to avoid contractual obligations in the context of COVID-19. But, most force majeure provisions do not reference these types of events. One of the most common events referenced in a force majeure provision is an "act of God." There are few cases that define that term, but those that do agree that an "act of God" must be a natural disaster or other natural phenomenon that is void of

[89] Polsinelli Contributions can be retrieved here:
- https://www.covid19.polsinelli.com/commercial/covid-19-and-its-growing-impact-on-commercial-contracts-how-should-contracting-parties-respond
- https://www.covid19.polsinelli.com/commercial/real-estate-leasing-issues-and-workouts-in-light-of-recent-governmental-action
- https://www.covid19.polsinelli.com/labor-employment/act-now-advance-contact-tracing
- https://www.covid19.polsinelli.com/privacy-cybersecurity/cybersecurity-considerations-in-the-time-of-covid-19
- https://www.covid19.polsinelli.com/privacy-cybersecurity/covid-19-and-privacy
- https://www.covid19.polsinelli.com/privacy-cybersecurity/mitigating-risks-with-video-teleconferencing-platforms-federal-agencies-issue-timely-guidance

human error. The most common natural disaster is a weather condition such as a hurricane. There is some suggestion in cases from the early 20th Century that epidemics such as the influenza outbreak could be an "act of God" as well as some later references to avian flu as possibly being an "act of God".

A force majeure clause must be express. It cannot be implied. If a contract does not have an express force majeure provision, a party may need to look to other defenses such as impracticability, impossibility, and frustration of purpose.

Finally, in many instances, application of a force majeure provision turns on applicable government action in a particular jurisdiction. For example, a declaration of a state of emergency may trigger a force majeure provision.

Impracticability

As COVID-19's scope grows, it becomes more likely that the crisis will interrupt contracts governed by the Uniform Commercial Code, which has been adopted by the vast majority of states. The UCC governs contract that apply to "goods" rather than services or real property. The UCC's impracticability doctrine is codified in UCC § 2-615(a) and provides that "[d]elay in delivery or non-delivery … is not a breach under a contract for sale if performance as agreed has been made impracticable by the occurrence of a contingency the non-occurrence of which was a basic assumption on which the contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it later proves to be invalid." Increased cost alone does not establish impracticability unless an unforeseen contingency alters the essential nature of what a party is required to perform under a sales contract. Thus, although the doctrine of commercial impracticability is rarely applied, it has been used when extreme weather events or supervening governmental regulations prevent performance. For example, in response to government regulations requiring a mine operator to limit its pollution, the operator asserted that it could cut the usage of its natural gas drastically without liability on a contract requiring it to buy certain minimum quantities of natural gas. The Tenth Circuit agreed, ruling that the intervening government regulations regarding reducing pollution created an impracticability that excused performance. Similar arguments could be successful in the context of the COVID-19 pandemic where a party's good faith compliance with aspects of emergency declarations or orders make performing a sales contract impractical from a commercial standpoint.

Impossibility

Performing on a contract may also be excused if intervening events make performance impossible.[90] Proving impossibility is difficult and courts hold parties seeking to invoke this defense to a high burden. Generally, the party relying on the impossibility doctrine must establish that the subject matter of the contract, or the means of performing the contract have been "destroyed" making performance "objectively impossible." To excuse performance, the parties must not have contemplated the intervening event when they entered the contract, and performance is not excused if the event merely reduces profits. Application of the impossibility doctrine is usually reserved for very extreme and unusual cases, for example, the September 11 terrorist attacks. In some instances, the COVID-19 pandemic may qualify for impossibility. For example, emergency declarations, bans on travel or large gatherings or quarantines may well make performance of certain contractual obligations "objectively impossible."

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[90] *The impossibility doctrine is closely related to impracticability. In fact, the concepts are interchangeable except in UCC cases.*

Frustration of Purpose

If the underlying or principal purpose of a contract is so frustrated by an unforeseen event that renders the contract effectively worthless to a party, that party may be able to avoid performance based upon the doctrine of frustration of purpose. However, the frustrated purpose must be so completely the basis of the contract that, as both parties understood, without it, the transaction would have made little sense. This standard is difficult to meet. For example, a court held that Hurricane Katrina did not so frustrate the purpose of a contract for the sale of a business to excuse indemnity obligations undertaken by the seller. Nevertheless at some point the increasingly serious effects of the COVID-19 pandemic could potentially support a frustration of purpose defense. For example, if an association is planning a conference and most attendees or speakers decline to attend due to COVID-19 concerns or travel difficulties the conference could become a worthless endeavor and the sponsor of the conference may be able to establish a frustration of purpose defense to having to perform contracts related to the event.

Commercial Loan Agreements

Commercial loan agreements rarely include force majeure clauses or other similar provisions, without which courts usually reject borrower defenses based on commercial impossibility, frustration of purpose or otherwise in response to a lender exercising of remedies on default. There, however, infrequent occasions where a financing agreement has a force majeure clause, and in those occasions borrowers may attempt to avoid performance based on the commercial and economic disruption being caused by the COVID-19.

Insurance

As businesses face increasing losses due to COVID-19, insurance coverage for those losses will become more important. Business Interruption coverage will probably be some of the first claims made to insurance companies to cover COVID-19 losses, but parties will likely dispute whether the virus is an “interruption” because there is no physical loss or damage to the insured’s property. Aside from first-party claims, there could be coverage under a business’s CGL Coverage. For example, what if a person visits a mall and contracts COVID-19 there? Can the person sue the mall operators for failing to take reasonable steps to prevent the spread of the virus? Similar claims are already being litigated: on March 9, 2020 cruise line passengers who caught COVID-19 on a cruise sued the cruise line, alleging that it should have done more to keep them safe. More litigation of this nature will surely follow.

LABOUR LAW

For any employer that has gone through it, receiving news that one of your employees has been diagnosed with or was exposed to COVID-19 is a scary and revealing experience. What was once – even just 10 days ago – remote and hypothetical, immediately becomes real; raising urgent questions that require immediate, potentially-life-saving answers and actions.

Perhaps the most urgent of these questions involves “**contact tracing**” – the required process of identifying every individual who came into **close or direct contact**[91] with the

[91] Close contact is defined as: a) being within approximately 6 feet (2 meters), of a person with COVID-19 for a prolonged period of time (such as caring for or visiting a patient; or sitting within 6 feet of a patient in a healthcare waiting area or room); or b) having unprotected direct contact with infectious secretions or excretions of the patient (e.g., being coughed on, touching used tissues with a bare hand). https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html?deliveryName=FCP_8_DM21038

infected individual in the workplace within the last 14 days so those individuals may self-quarantine, closely monitor themselves for possible symptoms, and otherwise take steps to help prevent setting off entirely new chains of transmission.

As employers look to implement critical mitigation strategies in accordance with guidance from the CDC (e.g., social distancing, limiting travel, staggering work schedules, regular health checks), employers must also give serious thought **now** to how contact tracing will be handled if, and when, an employee contracts (or likely contracted) COVID-19. Delay or uncertainty in creating a reliable and accurate "contact list" will delay efforts to notify employees that they should self-quarantine and closely monitor themselves for possible symptoms of COVID-19. In this crisis, employees are looking to their employers for information to help them make informed decisions about how they can protect themselves, their families and their communities. It's an unprecedented moment for employers.

Employers who are not prepared to generate a comprehensive and accurate "contact list" immediately following a possible exposure have limited options. They are left with issuing vague exposure notices that provide little actionable information to employees and potentially exacerbate the fear and anxiety many workers are already experiencing. Such employers also face the risk that health authorities will recommend or require a prolonged closure of operations pending completion of a contact tracing investigation.

Current retroactive contact tracing efforts also suffer significant practical limitations – they depend on the collection of information after the fact, with all of the fallibilities that human memory and time can bring. Sorting through these challenges with relatively low level outbreaks may be manageable, but not so in the current global pandemic. The strain on already strained health authority resources is a recognized problem. In the healthcare setting, the CDC has already suspended its valuable, but resource consuming contact tracing efforts, with one CDC official recently explaining that "*Dedicating resources to contact tracing and 'retrospective risk assessment' takes resources away from other critical infection prevention and control measures…*"

So what can an employer do? One answer is surprisingly simple: set social distancing rules and then identify, limit, trace and audit employee contacts that do not comply with those social distancing rules **before** any diagnosis. A well-developed **A**dvance **C**ontact **T**racing ("**ACT**") program incorporated into an employer's overall Pandemic Response Plan puts employers and employees in a rare position of control in these seemingly uncontrollable times. Here is one possible approach to *rapidly* establishing an ACT Now program:

- **Set Social Distancing Rules.** First, consider whether your operation is subject to and able to comply with strict social distancing requirements. In some environments, it may be possible to achieve perfect compliance with rules such as those prohibiting employees from coming within 6 feet of each other for any prolonged period. (*See*, CDC's "Consider establishing policies and practices for social distancing.") However, it would be a potentially serious error to simply rely on the hope that individuals have perfectly adhered to strict social distancing as part of your pandemic response plan. Even in those workplaces where it is theoretically possible to achieve perfect compliance, human error, emergencies and unforeseen situations may lead to close or direct contact between co-workers and should be expected. An effective ACT Now program will take this into account.
- **Identify.** Based on a careful assessment of your company's physical sites, layout(s), organizational structure and processes, identify the expected or "presumptive" list of likely close or direct contacts that an employee may be expected to have throughout the day. The exercise need not be overly complicated. For most employers, the data needed to perform this exercise already exists in a readily sortable format; namely, in the company's HR Information System (**HRIS**), which can be filtered by location, function, immediate supervisor or team lead. This exercise

will also help identify administrative controls (e.g., policies or procedures) and engineering controls (e.g., partitions or barriers) that could be implemented to further enhance social distancing efforts. Engaging in this exercise before any exposure will also save valuable time if a future diagnosis occurs – providing an immediately available potential contact list that can be used in support of initial self-quarantine recommendations.

- **Limit.** For those workplaces where direct or close contact is necessary and unavoidable (e.g., to safely perform a task), contacts should be limited to the smallest possible team. In establishing these teams, consider the potential impact of a positive diagnosis within the team --- all members of the team would be required to self-quarantine, so define teams with redundancy and continuity in mind. Don't put everyone who can perform a critical function on the same team.
- **Expect the Expected --- Create Daily Exception Reporting:** Establish an easy to use exception reporting process to trace contacts outside of the contact team or that otherwise violate the employer's social distancing rules. A daily form (paper or electronic) at the end of the work day (for supervisors and/or individual employees) could work. A dedicated email box or even hotline number could be especially helpful. If done properly, employers need not roll out new or complex technological solutions, though such solutions could be effectively utilized (e.g., card swipe, security camera or other tracking or security systems).
- **Foster Voluntary Contact Reporting.** Successful voluntary contact reporting depends on creating an environment where employees do not fear retaliation or adverse consequences to themselves or others for fully disclosing their contacts (*See*, the CDC's "Maintain Healthy Business Operations"). Do not use voluntarily reported contacts as a basis for discipline (e.g., for violating social distancing rules). Consider how reports can be kept as confidential as possible to eliminate potential barriers to full disclosure (for example, an employee may be reluctant to tell a direct supervisor about contacts during the day with friends). Consider implementing comprehensive COVID-19 related leave benefits so employees will not worry that voluntary reporting will result in friends and colleagues being forced into leave without pay if an exposure occurs. For some employers (i.e., those with fewer than 500 employees), the cost of such benefits may be reimbursed under the Families First Coronavirus Act.
- **Communicate & Train.** ACT Now is easy to communicate and train as part of an employer's overall pandemic response program. The message is simple: (1) Maintain Social Distancing; and (2) Keep Calm and Track Close Contacts. Provide manager and supervisor training so they understand their roles and responsibilities in the process and can help effectively re-enforce the steps individual employees can and should take to reduce their risks of exposure.
- **Audit & Improve.** Advance contact tracing data will be valuable on rolling 14-day day periods. The information should be reviewed regularly to ensure accuracy, including by conducting periodic interviews with supervisors and employees to validate the accuracy of the information. Of course, an effort should also be made after a diagnosis to also attempt to confirm the accuracy of the contact list with the patient (if they are available). The audit process will also help identify opportunities for improvement --- i.e., by identifying possible ways to reduce each employee's direct or close contacts in the workplace, as recommended by the CDC. Finally, the audited ACT data may be helpful in determining whether a COVID-19 diagnosis resulted from a workplace exposure (triggering potential OSHA reporting obligations under 29 CFR 1904).

Can I ask employees about whether they have symptoms of COVID-19 or if they have tested positive?

CCPA:

Employers have an obligation to protect their employees' health. Therefore, employers may collect information from employees regarding their health, provided the employee is given CCPA compliant notice of such data collection. However, employers should not gather unnecessary information and they should use appropriate safeguards to protect any specific health information they do collect.

If an employee has tested positive, or has symptoms, the employer can inform fellow employees (and others who may be potentially impacted) of their possible exposure, but should not disclose the identity of the impacted individual.

GDPR:

The European Data Protection Board, and various Data Protection Authorities, have issued guidance regarding data protection and COVID-19.

The issued guidance is consistent in the requirement for organizations ensure the protection of personal data, notwithstanding the shared goal of fighting COVID-19. As such, employers still need to have a lawful basis for processing EU personal data, even in the current health crisis.

The good news is that processing of personal data (including healthcare or other special category data) is permitted in the context of compliance with a legal obligation to which an employer is subject, such as obligations relating to health and safety in the workplace, or to the public interest, such as the control of diseases or other threats to health. Therefore, it is reasonable to ask employees if they are experiencing COVID-19 symptoms or if they have visited a particular country. However, employers should not gather unnecessary information and they should use appropriate safeguards to protect any specific health information they do collect. Employers should also be careful about performing medical check -ups on employees, as national laws differ in this respect.

If an employee has tested positive, or has symptoms, it is also reasonable for the employer to inform fellow employees (and others who may be potentially impacted) of their possible exposure, but employers should not disclose the identity of the impacted individual. In cases where it is necessary to inform others of the identity of the impacted individual, organizations should ensure that national law permits it and should ensure that impacted individuals are informed in advance that their identity may be disclosed.

We have suffered a breach. Do we still have notify regulators according to the statutory requirements (i.e., within 72 hours for the GDPR)?

CCPA:

Yes, if a business suffers a data breach requiring notification to more than 500 CA residents, then businesses are still required to notify the CA Attorney General of such breach.

GDPR:

Yes, the applicable Data Protection Authority cannot change the 72-hour breach notification requirement under GDPR. However, various Data Protection Authorities (for example, the UK Information Commissioner) have issued guidance stating that they do not operate in insolation of matters of public concern, such as the COVID-19 pandemic. As a result, Data Protection Authorities may adopt a more lenient approach to enforcement of GDPR if an impacted organization can show that its delay in reporting a breach was the result of the COVID-19 health emergency.

We have received a consumer rights request. Do the timeframes still apply for responding to consumer requests?

CCPA:

Yes. However, when reasonably necessary, the CCPA allows for one 45-day extension for responding to requests when reasonably necessary, provided the consumer is given notice and an explanation of the extension within the initial 45-day period.

While the CA Attorney General has not provided guidance on whether delays caused by the COVID-19 pandemic constitute "necessary" under the statute, the current health emergency is likely to qualify. Importantly, businesses should keep in mind the CCPA's requirement to confirm receipt of requests to know and requests to delete within 10-business days cannot be extended. In addition, the 15-business day compliance period for responding to requests to opt-out also cannot be extended.

GDPR:

Yes. However, as with breach notification, various Data Protection Authorities have issued guidance stating that while they cannot change statutory deadlines, they do understand that usual compliance and information governance resources may currently diverted to other areas during the COVID-19 pandemic. Therefore, there may well be a more lenient approach taken to enforcement, but organizations should continue to keep individuals making data subject requests updated as to the status of their request and the likelihood of delays in responding.

Cybersecurity Considerations in the Time of COVID-19

The Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) held a stakeholder security briefing that led to an alert (CISA Alert) issued on March 13, 2020. The CISA Alert encourages all businesses to implement a heightened state of cybersecurity in the course of establishing remote work options (i.e., telework).

CISA's director, Chris Krebs, related concern about the impending reliance on telework and emphasized enterprises to consider VPN security guidance. Director Krebs also urged the private sector workforce to be on the alert for Covid-19 phishing scams and related apprehension about misinformation circulating. Director Krebs urged businesses to take care to verify claims before relying on information on social media. CISA welcomes reports of phishing scams.

Remote Operating Guidance & Phishing Scams for All Businesses

The CISA Alert urges IT managers and executives to remind employees of the hazards related to phishing emails that have become and are becoming more sophisticated and difficult to spot. The CISA Alert advised that reports of phishing emails during the COVID-19 pandemic have included:

- Emails that appear to have been sent by the World Health Organization or related governmental organization or health organization;
- Counterfeit purchase orders for face masks or other health or medical supplies applicable to COVID-19;
- Fake emails requesting "remote workplace testing" that may procure login details or other authentication information; and
- Requests for donations that appear to be sent from bona fide relief organizations or related health organizations.

Related cybersecurity issues that the CISA Alert urges IT managers and executives to be mindful of include the following potential risks:

- Working on unsecured personal devices at home;
- Transferring company information using personal email accounts such as the risks associated with emailing company files by employees to themselves;
- Use of personal cloud storage accounts;
- Bringing home company documents and risks of theft from car, etc.;
- Use of unsecure connections from home; and
- Use of unsecure conference call lines.

To mitigate the foregoing potential risks, CISA encourages businesses to review the following recommendations when considering alternate workplace options:

- Update VPNs, network infrastructure devices, and devices being used to remote into work environments with the latest software patches and security configurations.[92]
- Alert employees to an expected increase in phishing attempts.[93]
- Alert IT security personnel to bolster remote access cybersecurity tasks.[94]
- Implement multi-factor authentication (MFA) on all VPN connections to increase security (or at least require rigorous passwords).[95]
- Alert IT security personnel to test VPN limits to prepare for mass usage to determine if modifications are required such as to create priority for those who may require higher bandwidths.
- Contact CISA to report incidents, phishing, malware, and other cybersecurity concerns

The CISA Alert reminds employers and business that a phishing attack can be successful if just one employee opens a fraudulent link or attachment. To reduce risk, CISA recommends email alerts, training via webinar or teleconference and phishing tests.

If your company is implementing its business continuity plan (BCP), educate your employees of any changes to business practices that are called for in your BCP. If your business does not have a BCP in place or your BCP does not contemplate the current circumstances, distribute information to your employees to alert them to procedures you intend to follow, including:

- Identify the people in your organization from whom they can expect to receive updates regarding business operations, changes in procedure, urgent

[92] See CISA Tips Understanding Patches and Securing Network Infrastructure Devices.
[93] See CISA Tip Avoiding Social Engineering and Phishing Attacks.
[94] Per the National Institute of Standards and Technology (NIST) Special Publication 800-46 v.2, Guide to Enterprise Telework, Remote Access, and Bring Your Own Device (BYOD) Security, these tasks should be documented in the configuration management policy.
[95] See CISA Tips Choosing and Protecting Passwords and Supplementing Passwords for more information.

announcements, or notices regarding IT matters (including announcements of any software installations or downloads).

- Create a central online repository where employees can find the most current information about altered business practices.
- Establish points of contact for receiving and processing questions from employees to maintain consistent and accurate communications.
- Provide a readily accessible directory of all key internal contacts for IT support and HR functions.
- Designate personnel who will be tasked with coordinating, reviewing and approving external requests such as those that appear to be from customers or vendors seeking a variance on established business practices.

Keeping employees informed will prepare them to identify bad actors. Advise employees of the steps they should take to report suspicious activity and whom they should alert if they may have inadvertently responded to a phishing attack or if confidential information may have been compromised.

Additionally, if your company is implementing its BCP and will be making changes to customary business practices, alert business partners or customers (as applicable) of relevant changes in accordance with contractual notice obligations and procedures. Establish clarity with business partners and customer as to who will be principal points of contact while the BCP is in effect. Also consider whether force majeure clauses have been triggered and determine whether notice may be required pursuant to such provisions. To the extent mitigation efforts are undertaken, define and communicate what steps will be taken and where business partners or customers may turn for additional information. Ensure stakeholders are aware such measures have been implemented and are informed of names and contact information of counterparts with whom they may interface to help personnel avoid being misled by scam communications.

If your company has an incident response plan (IRP) to address actual or suspected data security breaches, review it now and ensure that personnel tasked with responsibility under the IRP are reminded of their roles and obligations. Update the plan, if necessary, and consider holding a brief tabletop exercise to bring together the incident response team to review the steps to be taken should a data breach occur. If your IRP has not identified all internal and external stakeholders who may need to be notified in the event of a data breach, develop this list and designate the applicable decision makers who will have authority to determine whether notice is required and, if so, what such notice should say. To the extent template notices do not already exist, prepare drafts that are customized for each applicable recipient (e.g., insurers, consumers, law enforcement, business partners, etc.).

Finally, a number of industry regulators have published statements or notices indicating that they will exhibit leniency in connection with the enforcement of certain security rules during this time; particularly in connection with the utilization of telehealth and telework arrangements. Although some regulators may be more lenient, companies should be aware that bad actors are taking advantage of recent events and remain vigilant in their cybersecurity practices.

Mitigating Risks with Video-Teleconferencing Platforms: Federal Agencies Issue Timely Guidance

Use of video-teleconferencing ("VTC") platforms has increased significantly during the COVID-19 pandemic. While such technology has its benefits, for example, allowing

employees to work from home and health care providers to provide telehealth services to their patients, VTC platforms can also introduce serious privacy and security risks. For example, the Federal Bureau of Investigation ("FBI") recently issued a warning about multiple "VTC hijacking" events in which an unauthorized, unknown third-party disrupted online conferences with pornographic images, hate images, and threatening language. However, the risks of VTC hijacking are not limited to the offensive. VTC hijacking can also lead to breaches of protected health information, financial information, confidential client information, and other sensitive information.

While entities cannot eliminate all risks of VTC hijacking, they can minimize the risks by taking proactive measures. Multiple federal agencies recently issued guidance for the safe use of VTC platforms and other teleconferencing technologies, including the FBI, the Office for Civil Rights ("OCR") at the U.S. Department of Health and Human Services ("HHS"), the National Institute of Standards and Technology ("NIST"), and the Federal Trade Commission ("FTC"). Below, we have provided some of the advice the agencies issued, which entities and health care providers should follow to protect their confidential communications:

- Always require a meeting password or use a waiting room feature (if available) to control the admittance of guests. Do not share the VTC meeting link on an unrestricted, publicly available social media account.
- Carefully manage screen sharing features. For example, use the "host only" option for screen sharing.
- Ensure all users have the most up-to-date version of the VTC platform.
- Ensure your policies address requirements for physical and information security related to VTC platforms. If the policies are silent on the topic or outdated, update them.
- Protect VTC platforms against eavesdropping. Ensure users' personal networks are set up securely. Specifically, all users should use an encrypted router by enabling "WPA2" or "WPA3." Create or direct your employees to online tutorial videos that show them how to enable WPA2 or WPA3 on a router.
- Require all employees to connect through a virtual private network ("VPN") to guarantee a secure, online network. If your business is unable to establish its own VPN, require your employees to download and use their own VPNs when conducting business.
- If employees use their personal computers and/or mobile devices, confirm that they have enabled basic security features, such as enabling the PIN, fingerprint, or facial ID feature.
- Require employees to report unusual or suspicious activity to your help desk, security operations center, or other appropriate contact.
- Never leave personal devices unattended.
- Require that employee laptops be password protected, locked, and secured. Passwords should be at least twelve (12) characters, with a mix of numbers, symbols, and capital/lowercase letters.
- Ensure all work devices have up-to-date security features. Employees should enable "automatic software updates" on all of their devices.
- For health care providers, use VTC platforms only in private settings, such as a clinic or office. Likewise, patients should not receive telehealth services in public or semi-public settings, absent patient consent or exigent circumstances. If telehealth

cannot be provided in a private setting, providers should implement reasonable HIPAA safeguards to limit incidental uses or disclosures of protected health information, such as: using lowered voices, not using speakerphone, or recommending that the patient move to a reasonable distance from others.

- Only use "non-public facing" products. A "non-public facing" remote communication product is one that, as a default, allows only the intended parties to participate in the communication. Typically, these platforms employ end-to-end encryption, which allows only an individual and the person with whom the individual is communicating to see what is transmitted. The platforms also support individual user accounts, logins, and passcodes to help limit access and verify participants. In addition, participants are able to assert some degree of control over particular capabilities, such as choosing to record or not record the communication or to mute or turn off the video or audio signal at any point.
- For health care providers and other covered entities and business associates subject to HIPAA, enter into a business associate agreement with the VTC platform.
- Review privacy notices to make sure you are transparent regarding the collection, use or other processing of personal information via VTC platforms.

Although the COVID-19 pandemic has created major risks associated with VTC platforms, entities and health care providers that follow the agencies' advice above will reduce the data security risks associated with conducting business and providing health care online.

COMMERCIAL LAW

Real-Estate Leasing Issues and Workouts In Light of Recent Governmental Action

As businesses have been forced to shutter operations in light of the COVID-19 crisis (whether directly as the result of governmental orders, or indirectly as the result of safety or economic concerns), and unemployment numbers across the United States continue to rise, many commercial and residential tenants have approached their landlords requesting concessions on rent or other charges. At the same time, in reaction to the financial pressures placed on both tenants and the landlords, federal and some local governments have issued legislative and executive acts in an effort to provide stimulus relief, as well as various executive and judicial acts limiting eviction and foreclosure actions.

In attempting to negotiate the terms of lease modification agreements, landlords and tenants would be well advised to make themselves aware of the existence of any governmental actions applicable to their jurisdictions and appropriately tailor any agreements to reflect not only the current governmental incentives and restrictions, but also any anticipated future actions. Among these concerns:

- The parties may want to include in their agreement a covenant requiring the other party to seek any governmental incentives that may currently be available, or that may become available at a later date. However, these provisions needs to be carefully tailored to the situation, so as not to result in unintended consequences (for instance, we have already encountered provisions so broadly worded that they would arguably require a tenant or guarantor who is a natural individual to pay over to the landlord any increased unemployment benefits that the individual would receive under the Coronavirus Aid, Relief and Economic Stimulus [CARES] Act).
- Under the new SBA 7(a) "Payment Protection Program" created by the CARES Act, unsecured—and, in some cases, forgivable—loans are available to small businesses to assist the businesses with the payment of certain costs, including

rent. However, to be forgivable, these loans have to be applied toward the expenses (including rent) incurred in the first 8 weeks after loan origination. This brings up unique considerations for both landlords and tenants, including: (i) whether a tenant should be required to pursue such a loan (and to apply all or a portion of the loan towards the payment of rent as a condition to the entering into a lease modification agreement), (ii) what evidence of such pursuit a tenant may be required to provide to a landlord, and (iii) the effect of rent deferment or forgiveness on a tenant's ability to claim forgivable expenses.

- In addition to the current federal moratorium on eviction actions, many states (and in some cases counties and cities) have enacted—either through executive order or judicial decree—limitations on a landlord's ability to pursue eviction proceedings. These limitations vary in duration and scope, and in many jurisdictions apply to commercial, as well as residential, evictions.

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